BIBLIOTHECA CLASSICA.

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M. TULLII CICERONIS ORATIONES.

WITH A

COMMENTARY BY GEORGE LONG.

VOL. III.

LONDON:
WHITTAKER AND CO. AVE MARIA LANE;
GEORGE BELL, FLEET STREET.
1856.

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PREFACE.

The text which I have used for the orations contained in this volume, is Orelli's edition of Cicero's Orations by I. G. Baiter and C. Halm, Zürich, 1854 and 1856. The other editions of the orations which I have used are mentioned in the Introductions to the several orations.

GEORGE LONG.

Brighton College,
July 16, 1856.

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INTRODUCTION

TO THE

ORATIONS AGAINST CATILINA.

THE four speeches of Cicero against Catilina are part of the materials that we possess for the history of a conspiracy against the Roman State. The chief conspirator, L. Sergius Catilina, belonged to a patrician gens, which had several branches. The branch to which Catilina belonged had the name of Silus. His great-grandfather, M. Sergius Silus, served in the second Punic war, and he was Prætor B.C. 197 (Liv. 32, c. 27), the first year in which six Praetors were elected. There is a denarius which bears the name of M. Sergius Silus, and is supposed to have been struck in honour of him by his son M. Sergius Silus. The son was a legatus under the consul Aemilius Paullus in the Macedonian war, B.C. 168. He left a son, Sergius Silus, whose praenomen is unknown. This unknown man had a son named L. Sergius Catilina, who was probably about two years older than Cicero, and born in B.C. 108. This conclusion is derived from the year of his praetorship B.C. 68, and from the assumption that he obtained this magistracy at the earliest age that he could.

L. Sergius Catilina inherited a great name and the rank of Patrician without much fortune. He had a strong body and a vigorous understanding. He loved pleasure, and from his early youth lived a life of luxury and dissipation. He could however endure pain and toil, and he did not fear danger. He had abilities, passions, and courage, and his enemies tell us that he never scrupled at employing any means to accomplish his ends.

In the time of Sulla's proscriptions he murdered his own brother (Plutarch, Cicero, c. 10), and many Roman equites. In B.C. 73 he was tried for having sexual commerce with a Vestal, Fabia, a half-sister of Cicero's wife Terentia: but he was acquitted. Sallust and Plutarch tell us other things about him, some of which may not be true, though they were said and believed (Sallust, Cat. c. 5 ; c. 14, &c. Plutarch, Cicero,

c. 10). Sallust charges him with murdering his own son before he married Aurelia Orestilla, who refused his suit until the young man was put out of the way.

In B.C. 68 Catilina was elected a Praetor, and in the next year he had the province of Africa as Propraetor. He was in Rome in B.C. 66, where he came to canvass for the consulship, but having had notice of a prosecution for maladministration in his province, he was compelled to retire from the field, either because he could not be a candidate under such circumstances, or because he knew that the presiding consuls would not return him as elected, even if he had the majority of votes (Sallust, Cat. 18; Becker, Handbuch, &c., ii. 2, p. 33, &c.).

The consuls elected for B.C. 65, P. Autronius Paetus and P. Cornelius Sulla, were prosecuted for bribery and convicted, upon which L. Aurelius Cotta and L. Manlius Torquatus were elected consuls. Catilina and Autronius being joined by Cn. Calpurnius Piso, a young patrician, formed a design to murder the two consuls on the first of January, and many of the most distinguished senators during the celebration of religious worship on the capitol. Their design was to assume the consular power, and to send Piso with a force to take possession of the Spanish provinces (Sallust, Cat. c. 18, 19; Cicero, In Cat. i. c. 6). The conspiracy having become known, the execution of it was deferred to the fifth of February, but it failed then also. Though the facts were notorious, the Senate did not investigate them, and nobody brought the conspirators to trial.

In this year Catilina was tried for maladministration (Repetundarum) in his province of Africa. The prosecutor was P. Clodius Pulcher. Cicero was asked to defend Catilina, and we know from one of his own letters that he did not refuse (Ad Att. i. 2). It is not certain whether he did defend him or not, but if we can draw any conclusion from his letter, the conclusion is that he did defend him. Asconius says that Fenestella states that Cicero did defend Catilina, but Asconius infers from Cicero's oration In Toga candida (Ascon. ed. Orelli, p. 85) that Fenestella was mistaken. The consul L. Torquatus helped Catilina on his trial (Pro Sulla, c. 29). Some of the Judices were bribed and voted for the acquittal; the equites and tribuni aerarii, as Asconius says. The Senatorial judices voted against him. It was a scandalous affair; and Clodius himself, the prosecutor, was guilty of Praevarication (Rein, Das Criminalrecht der Römer, p. 632). Drumann (Geschichte Roms, v. p. 411) maintains that Cicero defended Catilina on this occasion; and, as already observed, there are good reasons for thinking that he did. But, as Drumann justly says, "as to our estimate of Cicero's moral worth, it is quite immaterial whether he did or did not do what he intended." He knew Catilina well. He believed

him to be a villain, a murderer, a plunderer of his province; but he thought that it might help him in his own election if he could oblige this bold patrician. "If Catilina shall be acquitted," says Cicero to Atticus, "I hope that he will be closely united with me in prosecuting my canvass for the consulship; but if it shall turn out otherwise, I shall bear it as one of the things that happen in human life."

During the year B.C. 64 Catilina was still forming his revolutionary designs, and the circumstances of the time seemed to be favourable for him. There was no army in Italy, and Rome's great general, Cn. Pompeius, was engaged in the east in the war against Mithridates. Catilina found his adherents among the licentious youth of Rome, among Sulla's old soldiers, who were spread over most parts of Italy, and among the impoverished, luxurious Patricians who could only get rid of their debts by getting rid of their creditors. There was now a great inequality in fortunes. There was an enormous number of men in Rome who had nothing. Wealth was in few hands, and men of mean birth, low fellows, had got it. Whatever danger there is from a rich aristocracy, there is more from an army of noble beggars who hold the political power. The facts which we learn from the historians and the orator, and the state of Italy after the times of Marius and Sulla, show clearly that the conspiracy was a revolution of desperate insolvents.

About the first of June (B.C. 64) Catilina invited to a meeting the men whom he had sounded severally. He laid before them his designs, the means of execution, and he showed them the reward of their daring. They were all poor; all were in debt. Their present condition was bad; the prospect was still worse. It was a miserable existence for men who knew what pleasure was and had enjoyed luxury. There was no way out of the difficulty except by a successful revolution, which would give them wealth, and honours, and power. The insolvent revolutionist has nothing to lose; and he may gain (Sallust, Cat. c. 17, &c.). Catilina still hoped to be elected consul, and to use the authority of his office as a means for accomplishing his ends. He promised his men an easy settlement of debts (tabulæ novæ), the proscription of the rich, and offices (magistratus), priestly honours, plunder, and every thing else that is the consequence of war, and depends on the pleasure of those who get a victory (Sallust, c. 21). It was to be the bloody time of Sulla over again, without any of Sulla's more enlarged views. A revolution by insolvent nobles, needy adventurers, and men of pleasure, has only one end and purpose; to cheat creditors, to fill the conspirators' pockets at the expense of others, and to use the power of the State for the benefit of the conspirators and those who will help to support them.

In B.C. 64 there were five candidates for the consulship of the year

B.C. 63. Two of them were Catilina and C. Antonius. Another was Cicero, whose chance of success was not great, notwithstanding his personal character and his eminence as an orator, for all the nobility were opposed to him. Catilina and Antonius combined against Cicero, who answered this coalition by an address to the people, entitled Oratio in toga candida habita. Only a few fragments of this speech have been preserved with the commentary of Asconius, but enough to show that it was a violent invective against the coalition (coitio) of Catilina and Antonius. This speech however did not serve Cicero so well as one of the conspirators unwittingly did. Among Catilina's associates was one Q. Curius, a man who had been expelled from the Senate, one of those idle, vain fellows who must talk, even if they ruin themselves by it. He had long had for his mistress a woman of noble rank, named Fulvia; but as his poverty did not allow him to give her what he had done, the woman began to be dissatisfied. As he could no longer pay in ready money, he paid in promises. He even threatened her life if she refused her usual favours, and displayed a violence of behaviour that she had not seen in him before. Fulvia found out the cause of Curius' strange behaviour, and talked freely about Catilina's designs, without saying how she knew them. The conspiracy was no longer a secret. The danger gave Cicero the votes of all those who wished for tranquillity and not revolution, and the nobility in alarm supported the election of the upstart (novus homo) against the patrician revolutionist (Sallust, Cat. c. 23). Cicero and Antonius were elected consuls for B.C. 63; but Antonius only gained his election by a majority of a few centuriae.

After the loss of his election, Catilina was tried under the Lex Cornelia de sicariis for a murder committed during Sulla's proscription; and he was acquitted (Cicero, In Toga Candida, p. 91, ed. Orelli). His disgrace and his danger increased his violence. He began to get stores of arms in convenient parts of Italy; and by his own and his friends' credit to raise money, which he sent to Faesulae in Etruria, to one Manlius, an old centurion in Sulla's army, who was himself a soldier of fortune, a man of expense, an insolvent, and a revolutionist. He now began to associate with him men of all classes, and women too, for the women had their share in the conspiracy. An historian who has often preserved some valuable facts, which others have forgotten (Appian, B. C. ii. 2), says that Catilina got money from women who were tired of their husbands and wanted an opportunity to murder them. There may have been men too who wished for the same opportunity to get rid of their wives. There were some women in the plot who had kept up an extravagant style of living by prostituting their bodies. Their profits declined as they grew older, but their love of good living did not diminish, and they got deep in debt. Catilina relied on these women

for stirring up the slaves in the city, for setting fire to Rome, and gaining over their husbands or killing them. One of these women bore the noble name Sempronia. She was of high birth, handsome, happy in her husband and her children. Her husband, D. Junius Brutus, had been consul in B.C. 77. She was versed in Greek and Roman literature; could play on the lute, dance with grace, and she possessed all the talents by which a woman can please. She wrote verses, and was witty in conversation, which she could suit to any occasion. She was altogether a pleasing and seducing companion. But this woman was a profligate sensualist, who spent her money as freely as she threw away her reputation, who sought her lovers if they did not come to her. The young Romans who formed Catilina's train were seduced by his promises and by the women whom he found for them. Beggared spendthrifts, decayed nobles, soldiers who had got a fortune by plunder and had spent it, bad wives and profligate women, were the motley crew that Catilina got about him.

Catilina still hoped for the consulship, and in B.C. 63 he renewed his canvass for the consulship of the following year. If he could be elected, he hoped to manage Antonius as he pleased, and to be more than a match for the consul Cicero (Sallust, Cat. c. 26). He would have assassinated Cicero if he could; but the consul was as watchful as Catilina, and a great deal more cunning. By large promises (Sallust, Cat. c. 26), made through Fulvia, and we may assume by large payments too, Q. Curius was bribed to betray to Cicero all the designs of Catilina. Cicero kept his colleague C. Antonius quiet by agreeing to give up to him his own province, that which Cicero was entitled to have at the expiration of his consulship. He provided for his personal safety by getting round himself a body of friends and clients, who served him like a secret police (In Cat. iii. c. 2). Cicero also carried a new Lex on bribery at elections (lex de ambitu), the object of which was to make still severer the penalties of the Lex Calpurnia de ambitu (Pro Murena, c. 32; Schol. Bob. ad Or. pro Sulla, p. 362). This Lex was directed against Catilina. The Senate also deferred the Consular Comitia to the twenty-first of October. But Catilina still prosecuted his canvass. His hopes rested on the consulship (Pro Murena, c. 24).

On the twentieth of October Cicero addressed the Senate on the danger with which the State was threatened by a conspiracy. The Senate resolved that the Comitia should not be held on the following day, but that they would on that day take into consideration the state of the nation. On the twenty-first of October Cicero, in the presence of Catilina, exposed to the Senate the designs of the conspirators. Catilina, as Cicero tells us (Pro Murena, c. 25), did not attempt to clear himself: he said that the State consisted of two bodies, the one weak

and with a feeble head, the other strong, but without a head; yet this body, since he owed it obligations, should never want a head so long as he lived (Plutarch, Cicero, c. 14; and compare Catilina's answer in Plutarch with Cicero's version of it). The Senate, on hearing Catilina's declaration, gave the Consuls full power to maintain the law. The usual formula on such an occasion was: 'Darent operam consules ne quid Res Publica detrimenti caperet' (Sallust, Cat. c. 29). The Comitia were held on the twenty-eighth of October (In Cat. i. c. 3). Cicero appeared in the Campus with a resolute body-guard, and the conspirators were deterred from making any disturbance. D. Junius Silanus and L. Licinius Murena were elected consuls.

A few days after, news from Faesulae came to Rome that Manlius, with a large force, was in the field; there were also rumours of people meeting together, of arms being got, and that the slaves at Capua and in Apulia were stirring. On this the Senate despatched the proconsul Q. Marcius Rex with an army to Faesulae; and Q. Metellus Creticus into Apulia and the neighbouring parts. The praetor Q. Pompeius Rufus was sent to Capua; and Q. Metellus Celer, also a praetor, was sent into Picenum, both of them with full power to raise troops. Rewards were offered for information about the conspiracy; the troops of gladiators, on whose aid Catilina reckoned, were distributed in Capua and the other Italian Municipia; and a vigilant watch was kept in Rome (Sallust, Cat. c. 30). Notice of a prosecution under the Lex Plautia de vi was given to Catilina, who, to keep up a show of innocence, offered to put himself in the custody of several men of rank (Cicero, In Cat. i. c. 8). But at this time he was plotting Cicero's death. He called his men together on the evening of the sixth of November at the house of M. Porcius Laeca. He informed them that he had made all his preparations, and that he wished to go and join Manlius, if he could take off Cicero first. Two men, L. Varguntejus and C. Cornelius, offered to call on Cicero the following morning and to murder him in his own house. Curius told Fulvia of the design, and Fulvia carried the news to the consul. The men came to his door in the morning; but they were turned away. On the eighth of November Cicero summoned the Senate to the Temple of Jupiter Stator, which he had surrounded with Roman equites in arms. Catilina was present. The consul broke out in a furious invective against Catilina, exposed his treasonable plot, told him that he was well informed of all that he had done and was doing, and advised him to leave Rome and go into voluntary exile. This is the first of the four orations against Catilina, which Cicero afterwards published ('scriptam edidit;' Sallust, Cat. c. 31; Ad Attic. ii. 1). When the consul had finished, Catilina humbly entreated the Senate not to judge him hastily, nor suppose that a man of his rank could

design the ruin of the State. He added a sneer against Cicero's origin, and was going on in the same way, when his voice was drowned by the cries of the Senate, who denounced him as an enemy and a traitor. Catilina hurried from the Senate with threats of vengeance, and late on the same night left the city for the camp of Manlius (Sallust, Cat. 31; Appian, B. C. ii. 2). On his road he wrote to some of the most distinguished men in Rome that he was going to retire to Massilia, the victim of calumny and of a hostile faction. The conspirators who stayed in Rome set abroad the same report with the purpose of making Cicero unpopular (In Cat. ii. 6).

On the next day, the ninth of November, Cicero delivered the Second oration against Catilina, which is addressed to the people. He endeavoured to quiet the alarm of the city, and to deter the conspirators who remained in Rome from prosecuting their desperate designs.

Catilina on his road wrote a letter to Q. Catulus, of which Sallust (Cat. 36) has preserved the copy. The historian says that the letter is genuine, and it looks like a genuine production of a villain and a hypocrite who does not know what to say. He complains of being an injured man, but does not say clearly what he is going to do. His object in writing was to recommend his wife Aurelia Orestilla to Catulus' care. A few days after Catilina left Arretium (Arrezzo) in Etruria, and entered the camp of Manlius with the fasces and the other insignia of consular power. When the news reached Rome, the Senate declared Catilina and Manlius to be enemies; they also fixed a day before the expiration of which a pardon was offered to all who would leave Catilina, except those who were condemned of capital crimes. But neither the offer of reward had induced a single person to give information about the conspiracy, nor did the promise of pardon draw one single man from the camp of Catilina; "with such violence," says Sallust, "just like a plague, had this pestilent affair laid hold of men's minds."

Sallust has explained his meaning in two short chapters (c. 37, 38). It was not the conspirators only who were discontented with the present state of affairs. All the class, which Sallust comprehends under the name of Plebs, wished for a revolution, and were in favour of Catilina. The historian means, as his words show, not the class of the Plebeii as opposed to any other class; he means the men who had nothing, who would not or could not work, and yet would live and enjoy. Rome was full of desperate, abandoned men. The most profligate and the most impudent; those who had wasted their estates; all who had been driven from home by their scandalous life or their crimes flocked to Rome. The city like a cesspool received the filth and drainage of all Italy. Men remembered too the times of Sulla. They saw some who had

stepped from the ranks of the army into the Senate; and others who had become rich enough to live in regal state. Every man who had nothing to lose might hope for a glorious prize in the midst of the general confusion. The men who had got their living in the country by hard labour flocked to Rome, where they lived on the bounty of individuals and the allowance made to the poor by the State; they preferred this idle life in the city to the ill-paid labour of the fields. It was no wonder if such men, who were beggars and had no principle, knew not their own true interests, still less what was best for the State. There were men too whose fathers had perished in Sulla's proscriptions, who had lost their property, and even some of the rights of citizens. Such men had nothing more to lose. Lastly, all the men who were not of the Senatorial party wished for revolution, for any change rather than their present inferior condition. Some years had now passed since the troublesome times of the last civil war and Sulla's tyranny, and the old state of things had come round again.

The tribunitian authority was restored in the consulship of Cn. Pompeius and M. Crassus; and many young men who were elected to this office, presumptuous and inexperienced, stirred up the Plebs against the Senate; they bribed them and made them promises; they sought only power and influence. The Nobility opposed the Tribuni; but under the pretext of maintaining the authority of the Senate they were only seeking their own interest. To sum up in a few words, all the agitators of the time, though they covered their designs under specious words, and pretended that their object was the public good, looked only to their own interest, some pretending to defend the liberties of the people, others the authority of the Senate. There was no moderation, no limits to the furious passions of either party. Both sides used a victory with equal cruelty.

After the appointment of Cn. Pompeius to the command in the war against the pirates, the power of the Plebs was weakened and the influence of the few increased. The high offices of the state, the provinces, and every thing else, were in the hands of these few. They lived in wealth and security; and they terrified their opponents by threatening them with prosecutions, and so they hoped to make them less active in stirring up the Plebs. But when the hope of change was presented to the weaker party, the old dispute between them and the Nobility was revived. If Catilina in the first battle had come off victorious, or even without defeat, great ruin and calamity would have fallen on the State; nor would the victorious party have been able to enjoy their success long before some stronger power wrested from their exhausted and lifeless hands both the government and liberty. These are the opinions

of Sallust on the state of Rome at this critical time; which he has expressed with a clearness and precision that we seldom see in a modern writer.

The consul Antonius was appointed to command the army against Catilina. Cicero was to stay in Rome and watch over the city. But the praetor P. Cornelius Lentulus Sura, and C. Cornelius, a senator, two of Catilina's foremost partisans, were still in Rome, and doing all that they could to further the object of the conspiracy. The plan was, that, when Catilina with his troops was in the territory of Faesulae, the tribune L. Bestia was to harangue the people, and charge Cicero with being the cause of all the troubles. On the following night the conspirators were to execute the several duties that were assigned to them. Statilius and Gabinius with a large body of men were to fire the city in twelve different places. Cethegus was to get possession of the entrance to Cicero's house and murder him. There were even sons, the greater part of them of noble families, who were to murder their own fathers. In the midst of the confusion the conspirators would break out of the city and join Catilina. Cethegus complained of delay and of the cowardice of his associates: he would have gone to work immediately. At last the Saturnalia, the 19th of December, was the day fixed for the execution of the plot. Cicero knew all; but he could not venture to do any thing till he had complete evidence. The conspirators themselves soon furnished him with it.

At this time there was in Rome a deputation from the Allobroges, a Gallic people who lived between the lake of Geneva and the Rhone. They had come to complain to the Senate of the Roman provincial government and of the debt they were burdened with; and they were dissatisfied at finding no hope of redress. Lentulus sent one P. Umbrenus to these men to sound their disposition, and to promise them relief if their nation would help Catilina with a body of cavalry (In Cat. iii. c. 4). The Allobroges saw some hope for their people in the proposals of Umbrenus; they said they were ready to do any thing that would release their country from its difficulties. Umbrenus took them into D. Brutus' house, which was near the Forum. Sempronia, Brutus' wife, was in league with the conspirators; and her husband, who knew nothing about it, was from home. Umbrenus invited Gabinius to the house to give more weight to the proposal, and in his presence he told the ambassadors of the whole plot. The Allobroges long hesitated what they should do; but, as the historian says, Rome's Fortune prevailed ("tandem vicit fortuna rei publicae," c. 41). They disclosed the conspiracy to Q. Fabius Sanga, the chief patron of their State. Sanga went to Cicero with the news, who told the ambassadors to pretend that they were hearty in the conspiracy; to see others of the conspirators, and to

promise them any thing, that they might be able to furnish complete evidence against them. The treacherous Galli were the consuls' ready tools. They demanded, as they were prompted by Cicero, a written statement from Lentulus, Cethegus, Statilius, and Cassius of their proposal, as necessary to satisfy their people at home. All of them gave the writing except Cassius, who promised that he would soon go to Gallia, and he left Rome before the ambassadors. Lentulus appointed a man of Crotona, one T. Volturcius, to accompany the ambassadors to the camp of Catilina on their way home, that the alliance might be confirmed with him. Lentulus also gave Volturcius a letter for Catilina (Sallust, Cat. c. 44; Cic. In Cat. iii. 5).

The Allobroges left Rome on the night of the second of December. Cicero, who was informed of every thing, gave orders to the Praetors L. Valerius Flaccus and C. Pomptinus to take an armed force and lie in wait for the Allobroges at the Pons Mulvius near Rome. The Allobroges, who were acquainted with the design, surrendered to the Praetors; and Volturcius, finding that he could make no resistance, did the same. Cicero was immediately informed of the capture of the Galli and the letters that they had from the conspirators. He had now got the evidence that he wanted; but he did not know what to do with the conspirators whom he had detected. However he took his resolution. He sent for Lentulus, Cethegus, Statilius, and Gabinius to his house; and the men came immediately. One Caeparius of Terracina, who had been commissioned to stir up the slaves in Apulia, was also summoned, but he found out what the meaning of the summons was, and made his escape. The consul took the praetor Lentulus by the hand and led him to the temple of Concordia, where the Senate was summoned to meet. The rest were taken there under custody. The Senate was crowded. Volturcius and the legati of the Allobroges were brought in; and the Praetor Flaccus was there with the letters which he had taken from the legati (Sallust, Cat. c. 46). The conspirators were convicted by the evidence of the Allobroges, their own handwriting, and even by their own confession (Cicero, in Cat. iii. c. 4). It was resolved that the conspirators, and also Caeparius, who had been taken, should be put in custody "in liberis custodiis haberentur." (Sallust, Cat. c. 47; Cic. In Cat. iii. 6; Plutarch, Cicero, c. 19).

"It was now evening, and the people in crowds were waiting about the temple, when Cicero came forth and told the circumstances to the citizens" (Plutarch). This is the speech which we have under the name of the Third Oration against Catilina. It changed the opinion of those who were in favour of revolution: they cursed Catilina, and extolled Cicero to the skies. They thought that the usual events of a civil war might bring them profit rather than loss; but the burning

of the city was more than men wished for, who would be the chief losers by it; men who had nothing but their clothes and the produce of their daily toil. (Sallust, Cat. c. 48.)

The freedmen and some of the clients of Lentulus and Cethegus tried to stir up the artisans and slaves to liberate the prisoners. But Cicero provided against this danger; and on the fifth of December he summoned the Senate to the temple of Concordia to deliberate on the punishment of the conspirators. The slope of the Capitolinus on which the temple stood was covered with Roman Equites under arms. The Senate had already declared that the conspirators were enemies to the State. The question now was, What the Senate would do with those who were in custody. D. Junius Silanus, who as consul designatus was first asked his opinion, moved that those who were in custody, and four others if they should be caught, should be punished (supplicium sumendum). The Consulares who spoke after him were of the same mind (Cic. ad Att. xii. 21). C. Julius Caesar, now Praetor designatus, gave a different turn to the matter. Sallust (Cat. c. 50) has reported his speech, but he does not say that he has kept the exact words. If he has altered them, it was a very useless piece of labour, for Caesar's own words would have told us his meaning as well as Sallust could. There seems however no reason to doubt that Sallust has given us Caesar's argument. The speech is the work of a master hand, and an evidence of the great ability of the aspiring young Roman. Caesar said that the infliction of capital punishment would be illegal; which nobody could deny, for the men had not been tried. He said it would be a dangerous precedent, and he proposed instead of the capital punishment to confiscate the property of the conspirators, to distribute them among the most powerful Municipia to be kept in prison for life, and to make the Municipia responsible for them under severe penalties. It was obvious enough, that, if these men were imprisoned, they might some day have the chance of escaping; and Caesar met this objection by proposing that no man should ever make any motion in the Senate or propose to the people any thing about these men; and that any man who should act otherwise, should be considered an enemy.

Caesar's reasons for his proposal are given in his own speech. But his true reasons are guessed by others. Plutarch (Cicero, c. 20) says: "Caesar, who was then a young man and in the very beginning of his rise to power, and already in his policy and his hopes had entered on that road by which he changed the state of Rome into a monarchy, though he eluded the penetration of the rest, caused great suspicion to Cicero, without however giving him any hold for complete proof; but there were some heard to say that he came near being caught and yet had escaped from Cicero." A modern writer (Drumann, Geschichte

Roms, v. 506) sees still deeper into Caesar's motives: Caesar cared neither for the prisoners nor the Senate. He only wished to make the aristocracy unpopular, and to appear the friend of the people, who wanted not blood, but only protection against massacre and the destruction of their houses.

This speech moved the Senate. They had been told that it was illegal to put the conspirators to death by a decree of the Senate. Even Q. Cicero, Marcus' brother, who was Praetor designatus, was alarmed: he feared for his brother. (Sueton. Caesar, c. 14.) But the consul was resolved to punish the conspirators. He rose and addressed the Senate in a speech, which is entitled the Fourth Oration against Catilina. He discussed the different opinions of Silanus and Caesar with reference to his own personal security, and the risk that he ran of bearing all the blame of this extraordinary severity. He clearly expresses his wish that the Senate would adopt the proposal of Silanus without regard to the consequences for himself. It is conjectured that the speech which we have is not exactly the speech that was delivered, though in substance the spoken speech may have been the same. When he published his Four Orations against Catilina, he probably added to them much of their rhetorical ornament. It does not appear in what part of the debate he spoke; but it was before Tib. Nero, who proposed to adjourn the debate, and in the mean time to adopt further measures for the security of the state; and before M. Porcius Cato. Appian (B. C. ii. 5) says that the proposal of Nero was to keep the men in prison till Catilina was defeated, and they had got more information about the conspiracy. Cicero says nothing in his speech about the proposal of Nero, nor about Cato, whence we may conclude that he spoke before them. The Senators were still undecided after Cicero's speech; or rather they were in favour of Caesar's proposal; "all Cicero's friends, thinking that Caesar's opinion was for the advantage of Cicero, for he would be subject to less blame if he did not condemn the men to death, chose the second opinion rather, so that even Silanus himself changed and made his explanation, saying that neither had he delivered his opinion for death, for that the extreme punishment to a Roman Senator was the prison. After the opinion was given, Catulus Lutatius was the first to oppose it; and he was followed by Cato, who in his speech vehemently urged suspicion against Caesar, and so filled the Senate with passion and resolution, that they passed a vote of death against the men" (Plutarch, Cato, c. 21). Caesar objected to the confiscation of property if the sentence of death was inflicted; and Cicero at last gave way on this point.

Cato was 'tribunus designatus.' He spoke with great vehemence (Vell. Pat. ii. 35); and his courage roused the fainting spirit of the

Senate. Sallust has preserved the substance of his speech ("hujuscemodi orationem habuit," Cat. c. 52). He might have given us the very words. "They say that this is the only speech of Cato which is preserved, and that it was owing to Cicero the Consul, who had previously instructed those clerks, who surpassed the rest in quick writing, in the use of certain signs which comprehended in their small and brief marks the force of many characters, and had placed them in different parts of the Senate-house. For the Romans at this time were not used to employ, nor did they possess, what are called note-writers, but it was on this occasion, as they say, that they were first established in a certain form" (Plutarch, Cato, c. 23[1]).

There was no confirmation of the sentence of the Senate by the people. The Consul was too prudent to let the conspirators live through the night. "He first took Lentulus from the Palatine, and led him through the Sacred Road and the middle of the Forum, with the men of highest rank in a body around him as his guards, the people the while shuddering at what was doing, and passing by in silence, and chiefly the youth, who felt as if they were being initiated with fear and trembling in certain national rites of a certain aristocratical power. When Cicero had passed through the Forum and come to the prison, he delivered Lentulus to the executioner, and told him to put him to death; he then took down Cethegus, and every one of the rest in order, and had them put to death" (Plutarch, Cicero, c. 22). The conspirators were pitched down into a hole in the Tullianum, about twelve feet deep, and the executioners, who were waiting below, strangled them as they fell; Lentulus, Cethegus, Statilius, Gabinius, and Caeparius (Sallust, Cat. c. 55). Cicero saw that the work was done, as Appian says (B. C. ii. 6). It is probable that he would not trust any body. When he came out, he told the crowd who were standing about the prison that the conspirators 'had lived.' He was accompanied to his house by the shouts and applause of the citizens. There were lamps and torches at the doors; and the women put lights on the house-tops. There were all the signs of rejoicing at the escape from a great calamity.

Early in the next year Catilina was attacked near Pistoria (Pistoia) in Etruria, to which place he had led his men with the intention of

[1] The Romans had short-hand writers. They called them 'actuarii' and 'notarii,' of which last word the σημειόγραφοι of Plutarch is a translation. Martial mentions short-hand writers,—

> "Currant verba licet, manus est velocior illis,
> Nondum lingua suum, dextra peregit opus."
>
> *Martial, Epig.* xiv. 208.

It is not likely that short-hand writing was invented for the occasion, as Plutarch says. It may have been used then for the first time in the Senate.

escaping into Gallia Cisalpina over the Apennines. But Q. Metellus Celer, who was in Picenum with three legions, posted himself at the foot of the mountains exactly at the place where the rebels would have come down. With the mountains in his rear, which he could not pass, and the army of C. Antonius in front, there was no chance left but to fight. Antonius was sick on the day of battle, and M. Petreius his 'legatus' commanded the army of the State. It was a furious contest, hand to hand with the sword. Petreius at last broke the rebels' centre, and the battle was won. Catilina, seeing that all was lost, rushed into the thickest of the fight and perished. The rebels died like men of courage on the spot where they stood; and even in the centre, where they were broken, every man's death-wound was in front. No quarter was given; no prisoners were made. Many who had come to see the fight or to spoil the dead, turning over the lifeless bodies, found a friend or a kinsman; and some there were who recognized a dead enemy (Sallust, Cat. c. 56—61).

This mad plot might have succeeded in spite of the risk that there is of all conspiracies being detected when many men are engaged in them. If there is a woman in the plot, it is sure to be spoiled; or a man who is a woman in all but sex. In a state so corrupt as Rome was, the chance of the conspiracy succeeding was very great, for it was known long before active measures were taken to crush it. So true it is that a plot against a republic is not so difficult a matter to accomplish as a plot against a prince, as Machiavelli shows (Discorsi, iii. c. 6, Delle congiure). The conspirators in Rome lost their lives because they committed themselves in writing, which a prudent conspirator will never do. If Catilina had any design beyond the immediate satisfaction of his vengeance and the plunder of the rich, it was to follow Sulla's example, who had shown that by shedding blood without pity and by the aid of the army a man may usurp the chief power in a state. And this was his design, we may assume; for such a man must have looked beyond the first step. He promised to do what usurpers now do in such a case. They take from the ranks of the citizens ambitious and restless men, and make them gentle, not in name, but in fact: they give them money, land, and places; they give them means and men, men in arms. With all their dependants around them, who occupy every post, the usurpers maintain their power, and their instruments have their ambition and their greediness satisfied; while all the rest are constrained to support that yoke which force and nothing else makes them endure (Machiavelli, Discorsi i. c. 55).

A sketch of Catilina's conspiracy is prefixed by Halm to his edition of these four orations; and Drumann (Geschichte Roms, v. 377—577) has written the history at some length. I have used both. Some critics

have said that the last three orations against Catilina are not genuine. Cicero (Ad Att. ii. 1, 2) mentions among his ten 'orationes consulares' four against Catilina (septima, qua Catilinam emisi; octava, quam habui ad populum postridie quam Catilina profugit; nona in contione quo die Allobroges involgarunt; decima in Senatu Nonis Decembribus). It has been supposed until the present century that the four orations which we have are the four of which Cicero speaks in this letter. The evidence of the MSS., as far as it goes, is for the genuineness of these speeches. They are not attributed to any body else than Cicero. Those who read them attentively may discover if they can, either in the matter or in the language, the signs of forgery. If a man who is familiar with Cicero can read these orations without any suspicion of their genuineness, that is a good argument in their defence. It is likely enough that there are interpolations in them; but they are as genuine as any thing else that we have of Cicero. It is very difficult for a man to read the two books of the Epistolæ ad Brutum without feeling that he is not reading Cicero. Drumann has two long notes (p. 470, and 512) in which he maintains that all these four orations are genuine.

I have used Halm's edition of these Orations, which is in the new edition of Orelli's Cicero. He has given the various readings at great length. I have also used his edition of these four orations with German notes (Leipzig, 1851), and I have got much useful matter from it.

M. TULLII CICERONIS

INVECTIVARUM

IN

L. CATILINAM

LIBRI QUATUOR.

ORATIO PRIMA,

HABITA IN SENATU.

I. Quousque tandem abutere, Catilina, patientia nostra? Quamdiu etiam furor iste tuus nos eludet? Quem ad finem sese effrenata jactabit audacia? Nihilne te nocturnum praesidium Palatii, nihil urbis vigiliae, nihil timor populi, nihil concursus bonorum omnium, nihil hic munitissimus habendi senatus locus, nihil horum ora vultusque moverunt? Patere tua consilia non sentis? Constrictam jam horum omnium scientia teneri conjurationem tuam non vides? Quid proxima, quid superiore nocte egeris, ubi fueris, quos

1. *Quamdiu etiam*] 'How long still,' as Halm correctly explains it. 'Quem ad finem,' 'up to what limit,' that is, 'quamdiu.' Halm compares Cicero (Vol. I. Verr. ii. 5. c. 29): "Piratam vivum tenuisti? quem ad finem? dum cum imperio fuisti."

concursus] Quintilian (Inst. ix. 3. 30), who quotes the passage from 'nihilne' to 'moverunt,' has 'consensus,' and also one MS. of Cicero; but 'concursus' is the better reading.—'munitissimus:' the Senate met in the temple of Jupiter Stator (Plut. Cicero, c. 16), which was near one end of the Via Sacra, and on the ascent to the Palatinus, which, as Cicero says, was occupied by an armed force.—'scientia,' Halm; the common reading is 'conscientia.'

proxima,—superiore] In c. 4 Cicero speaks of a meeting of the conspirators at the house of M. Laeca; and in another speech (Pro Sulla, c. 18) he says that this meeting was on the night which followed the day after the Nones, or the fifth of November. This meeting therefore was on the night of the sixth of November. In this passage he speaks of two nights, which preceded the day on which this speech was delivered; a night immediately preceding (proxima), and a night before that (superiore). Again (c. 4) he speaks of this 'nox superior,' which he shortly after calls 'prior;' and this was the night on which the conspirators met at Laeca's house. The 'nox proxima' is therefore the night of the seventh of November, and this speech was delivered on the eighth of November. In the second oration (c. 6) he also speaks of one night intervening between the meeting

convocaveris, quid consilii ceperis, quem nostrum ignorare arbitraris? O tempora! o mores! senatus haec intelligit; consul videt: hic tamen vivit. Vivit? immo vero etiam in senatum venit; fit publici consilii particeps; notat et designat oculis ad caedem unum quemque nostrum. Nos autem, fortes viri, satisfacere rei publicae videmur, si istius furorem ac tela vitemus. Ad mortem te, Catilina, duci jussu consulis jampridem oportebat; in te conferri pestem quam tu in nos omnes [jamdiu] machinaris. An vero vir amplissimus, P. Scipio, pontifex maximus, Ti. Gracchum mediocriter labefactantem statum rei publicae privatus interfecit; Catilinam orbem terrae caede atque incendiis vastare cupientem nos consules perferemus? Nam illa nimis antiqua praetereo, quod C. Servilius Ahala Sp. Maelium novis rebus studentem manu sua occidit. Fuit, fuit ista quondam in hac re publica virtus, ut viri fortes acrioribus suppliciis civem perniciosum quam acerbissimum hostem coercerent. Habemus senatus consultum in te, Catilina, vehemens et grave; non deest rei publicae consilium neque auctoritas hujus ordinis; nos, nos, dico aperte, consules desumus. II. Decrevit quondam senatus, ut L. Opimius consul videret ne quid res publica detrimenti caperet. Nox nulla intercessit: interfectus est propter quasdam seditionum suspiciones C. Gracchus,

at Laeca's and the first oration. Sallust (Cat. c. 27) mentions the meeting at Laeca's house.

P. Scipio,] This was P. Scipio Nasica Serapio, Pontifex Maximus, who led the rout that attacked Ti. Gracchus and killed him (B.C. 133). The head of religion, a man who held no 'magistratus' (privatus), led senators and a rabble with clubs and sticks to assault Gracchus (Plutarch, Ti. Gracchus, c. 19). But Scipio was soon obliged to leave Rome in consequence of this scandalous riot, and he died abroad. If we had to trust Cicero only for our knowledge of Roman history, we should be much deceived. In another place (De Am. c. 12) he represents Ti. Gracchus as attempting to seize royal power; and he adds, 'vel regnavit is quidem paucos menses.' In the next chapter he says that C. Gracchus was put to death 'propter quasdam seditionum suspiciones.' He speaks of the Gracchi in the orations against Rullus (ii. 5. Vol. II.).

Servilius Ahala] The story is in Livy (iv. 14). Ahala killed Maelius when he would not obey the summons of the dictator Cincinnatus; and the dictator approved of the act. Cicero (De Senect. c. 16) tells the story incorrectly; at least he differs from Livy, whose narrative is more probable. If Maelius was rightly summoned, and refused to obey the master of the horse, Ahala, who was appointed to take him, Ahala was justified in using force for the purpose; and if Maelius resisted, he was justified in killing him. If this were not so, there would be no authority in a state. Niebuhr has misstated this matter in his Roman history.

senatus consultum] This alludes to the 'senatus consultum' of the twenty-first of October, by which the consuls received authority to employ force of arms: "darent operam consules ne quid res publica detrimenti caperet." See the Introduction; and Sallust, Cat. c. 29.

2. *L. Opimius*] The story of C. Gracchus' death is in Plutarch (C. Gracchus, c. 14, &c.). Plutarch speaks of one son of M. Fulvius Flaccus being massacred in this disturbance and another after. (See note, In Cat. iv. 6.) Velleius Paterculus (ii. 6) has also told the story of the death of C. Gracchus and his partizans. The father of the two Gracchi was Ti. Sempronius Gracchus, who had been twice consul, and censor (B.C. 169). Their mother was Cornelia, the daughter of Scipio, the conqueror of Hannibal, P. Scipio Africanus major.

clarissimo patre, avo, majoribus: occisus est cum liberis M. Fulvius consularis. Simili senatus consulto C. Mario et L. Valerio consulibus permissa est res publica: num unum diem postea L. Saturninum tribunum plebis et C. Servilium praetorem mors ac rei publicae poena remorata est? At nos vicesimum jam diem patimur hebescere aciem horum auctoritatis. Habemus enim hujuscemodi senatus consultum, verumtamen inclusum in tabulis, tamquam in vagina reconditum; quo ex senatus consulto confestim te interfectum esse, Catilina, convenit. Vivis: et vivis non ad deponendam sed ad confirmandam audaciam. Cupio, patres conscripti, me esse clementem; cupio in tantis rei publicae periculis me non dissolutum videri. sed jam me ipse inertiae nequitiaeque condemno. Castra sunt in Italia contra rem publicam in Etruriae faucibus collocata; crescit in dies singulos hostium numerus; eorum autem castrorum imperatorem ducemque hostium intra moenia atque adeo in senatu videmus intestinam aliquam quotidie perniciem rei publicae molientem. Si te jam, Catilina, comprehendi, si interfici jussero, credo, erit verendum mihi, ne non hoc potius omnes boni serius a me quam quisquam crudelius factum esse dicat. Verum ego hoc, quod jampridem factum esse oportuit, certa de caussa nondum adducor ut faciam. Tum denique interficiere, quum jam nemo tam improbus, tam perditus, tam tui similis inveniri poterit qui id non jure factum esse fateatur. Quamdiu quisquam erit qui te defendere audeat, vives; et vives ita ut [nunc] vivis, multis meis et firmis praesidiis obsessus, ne commovere te contra rem publicam possis. Multorum te etiam oculi et aures non

C. Mario] See Pro Rabirio, c. 7. Vol. II. C. Servilius is C. Servilius Glaucia, the tribune who perished with Saturninus.

remorata est?] 'Did death and the penalty inflicted by the state keep them long in expectation?' They must have expected death, and death did not make them wait.

vicesimum] It was only the eighteenth day, observes Asconius (In Pison. § 4): "Cum octavus decimus dies esset, posteaquam factum senatus consultum ut viderent consules ne quid res publica detrimenti caperet, dixit vigesimum diem habere senatus consultum." The number of nineteen days is made out by counting the extreme days from the twenty-first of October (ante diem xii Kal. Nov., c. 3) to the eighth of November. The Romans in such cases sometimes counted the two extremes, but not always. It might have been supposed that usage would have fixed the meaning of the ordinal numbers when they were employed to express the time between two other times; but it was not so (Savigny, System, &c.; Beylage, p. 601).

dissolutum] 'Dissolutus' is careless. In the 'oratio' Pro P. Quintio, c. 11 (Vol. II.): "Quis tam dissolutus in re familiari fuisset, quis tam negligens," &c.

Etruriae faucibus] The camp of Manlius was at Faesulae (Fiesole) in Etruria (Sallust, Cat. c. 24), in the valley of the Arno, and a few miles above Florence. Sulla had established a colony here (In Cat. iii. 6), which was one reason why Manlius made Faesulae his head-quarters. It was also near the Apennines. The rear of Manlius was safe, and he might retire over the mountains into North Italy. Halm has "contra populum Romanum in Etruriae faucibus."

sentientem, sicut adhuc fecerunt, speculabuntur atque custodient.

III. Etenim quid est, Catilina, quod jam amplius exspectes, si neque nox tenebris obscurare coetus nefarios, nec privata domus parietibus continere voces conjurationis [tuae] potest, si illustrantur, si erumpunt omnia? Muta jam istam mentem, mihi crede; obliviscere caedis atque incendiorum. Teneris undique: luce sunt clariora nobis tua consilia omnia quae jam mecum licet recognoscas. Meministine me ante diem XII. Kalendas Novembr. dicere in senatu, fore in armis certo die, qui dies futurus esset ante diem VI. Kal. Novembres, C. Manlium audaciae satellitem atque administrum tuae? Num me fefellit, Catilina, non modo res tanta, tam atrox, tamque incredibilis, verum, id quod multo magis est admirandum, dies? Dixi ego idem in senatu, caedem te optimatium contulisse in ante diem V. Kalendas Novembres, tum quum multi principes civitatis Roma non tam sui conservandi quam tuorum consiliorum reprimendorum caussa profugerunt. Num infitiari potes te illo ipso die meis praesidiis mea diligentia circumclusum commovere te contra rem publicam non potuisse, quum tu discessu ceterorum nostra tamen qui remansissemus caede te contentum esse

3. *coetus nefarios,*] Klotz has 'coeptus nefarios,' which he calls the reading of all the MSS.; but Halm's readings show that 'coetus' is found in several MSS. 'Coeptus nefarios' has been compared with the expression in c. 5: "Compressi conatus tuos nefarios."

mihi crede;] It is better to connect this with what precedes, though it refers also to what follows. He says: "Change now that disposition of yours, be persuaded by me." Halm compares Horace, Sat. ii. 6. v. 93:

"Carpe viam, mihi crede, comes."

ante diem] Shortly after there is 'in ante diem.' Both mean the same thing, on the twelfth day before the calends of November, and on the fifth day before the calends of November. The Romans marked any particular day thus: 'die x ante Kalendas Januarias;' but it became usual to change the place of the preposition, and they said 'ante diem x Kal. Jan.,' which meant exactly the same thing. They said also 'in ante diem x Kal. Jan.,' which meant the same as 'in diem x Kal.' They used the preposition 'ante' without any regard to its meaning; even when there was no reckoning backwards, as in this passage in the Digest: "Qui ante Kalendas proximas stipulatur, similis est ei qui Kalendis stipulatur" (Dig. 45. 1. 13). In another passage (Dig. 50. 16. 132) it is said: "Anniculus amittitur qui extremo die anni moritur: et consuetudo loquendi id ita esse declarat, ante diem x Kalendarum, post diem x Kalendarum. Neque utro enim sermone undecim dies significantur." The jurist means to say that the words 'ante diem x Kal.' do not mean a day beyond the ten days, so that by this expression eleven days or more are intended, but exactly the 'dies x' itself (Savigny, System, &c., iv. p. 329, and the notes). See the Introduction as to the events of the twenty-first of October; and the oration Pro Murena, c. 25.

C. Manlium] C. Mallium in some MSS.; and this is the form which the Greek writers use, except Joannes Antiochenus, says Halm. Joannes is certainly an exception.

discessu ceterorum] "The verbal substantive in place of an ablat. absolutus, in order to supply the place of the defective past participle." Halm. This is perhaps a true explanation. The Latin writers often use this form, where they might use 'quum' with a subjunctive. The Latin language is deficient in participles both active and passive.

dicebas? Quid, quum te Praeneste Kalendis ipsis Novembribus occupaturum nocturno impetu esse confideres, sensistine illam coloniam meo jussu, [meis] praesidiis, custodiis vigiliis[que] esse munitam? Nihil agis, nihil moliris, nihil cogitas, quod non ego non modo audiam, sed etiam videam planeque sentiam. IV. Recognosce tandem mecum noctem illam superiorem: jam intelliges multo me vigilare acrius ad salutem quam te ad perniciem rei publicae. Dico te priori nocte venisse inter falcarios, non agam obscure, in M. Laecae domum; convenisse eodem complures ejusdem amentiae scelerisque socios. Num negare audes? Quid taces? Convincam, si negas. Video enim esse hic in senatu quosdam qui tecum una fuerunt. O dii immortales! ubinam gentium sumus, quam rem publicam habemus, in qua urbe vivimus? Hic, hic sunt, in nostro numero, patres conscripti, in hoc orbis terrae sanctissimo gravissimoque consilio, qui de nostro omnium interitu, qui de hujus urbis atque adeo de orbis terrarum exitio cogitent. Hosce ego video [consul] et de re publica sententiam rogo, et quos ferro trucidari oportebat, eos nondum voce vulnero. Fuisti igitur apud Laecam illa nocte, Catilina: distribuisti partes Italiae: statuisti, quo quemque proficisci placeret; delegisti quos Romae relinqueres, quos tecum educeres; descripsisti urbis partes ad incendia; confirmasti te ipsum jam esse exiturum; dixisti paullulum tibi esse etiam nunc morae quod ego viverem. Reperti sunt duo equites Romani qui te ista cura liberarent, et sese illa ipsa nocte paullo ante lucem me

Praeneste] The design to seize Praeneste (Palestrina) is not mentioned by any other writer. Praeneste was on the high land south-east of Rome, and a strong position. It is not known when Praeneste was made a 'colonia,' but it was probably Sulla's work (De Lege Agraria, ii. c. 28. Vol. II.).

quod non ego—sentiam.] This is Halm's conjecture in place of the reading 'quod ego non modo,' to which he was led by Madvig proposing to read 'quin ego.' The negation 'non' after 'quod,' says Halm, comprehends the whole of the following clause; for 'nihil quod non' is the same as 'omnia.' So we must translate the passage: "There is nothing that you do, nothing that you plan, you think of nothing, that I do not, I do not say hear, but even see and plainly perceive." In some editions it is: "Quod ego non modo non audiam, sed etiam non videam planeque sentiam;" which is just the contrary to the meaning. Lambinus says "videtur legendum *non modo non audiam*, quamvis reclament omnes libri et vulgati et MSS." But it is so in some MSS.

4. *inter falcarios,*] 'In the street of the hook-makers,' as Priscian explains it, and Muretus and Lambinus.

non agam obscure,] 'I will speak plain.' Matius, in a letter to Cicero, Ad Fam. (xi. 28), says 'sed non agam astute.'

de nostro omnium] Some MSS. have 'de meo omniumque interitu.' 'De meo nostrumque omnium interitu,' Lamb., Orelli, 'contra codd.' (Halm.) There is a reading 'de nostrum omnium interitu;' but 'nostro omnium' is the genuine expression.

duo equites] One of them was C. Cornelius, who is mentioned in the oration Pro Sulla, c. 6. The other is named by Sallust (Cat. c. 28), 'L. Vargunteius senator.' Dion Cassius (37. c. 32) simply says that two men undertook to murder Cicero. Plutarch (Cicero, c. 16) names Marcius and Cethegus; Appian (B. C. ii. 3) names P. Lentulus and Cethegus, both of them praetors, but they seem to have confounded two things (Sallust, c. 28. 43).

meo in lectulo interfecturos pollicerentur. Haec ego omnia vixdum etiam coetu vestro dimisso comperi; domum meam majoribus praesidiis munivi atque firmavi; exclusi eos quos tu mane ad me salutatum miseras, quum illi ipsi venissent, quos ego jam multis ac summis viris ad me id temporis venturos esse praedixeram.

V. Quae quum ita sint, Catilina, perge quo coepisti: egredere aliquando ex urbe: patent portae: proficiscere. Nimium diu te imperatorem tua illa Manliana castra desiderant. Educ tecum etiam omnes tuos; si minus, quam plurimos: purga urbem: magno me metu liberabis, dummodo inter me atque te murus intersit. Nobiscum versari jam diutius non potes: non feram, non patiar, non sinam. Magna diis immortalibus habenda est gratia atque huic ipsi Jovi Statori, antiquissimo custodi hujus urbis, quod hanc tam taetram, tam horribilem tamque infestam rei publicae pestem toties jam effugimus. Non est saepius in uno homine summa salus periclitanda rei publicae. Quamdiu mihi consuli designato, Catilina, insidiatus es, non publico me praesidio sed privata diligentia defendi. Quum proximis comitiis consularibus me consulem in campo et competitores tuos interficere voluisti, compressi tuos nefarios conatus amicorum praesidio et copiis, nullo tumultu publice concitato; denique, quotiescumque me petisti, per me tibi obstiti, quamquam videbam perniciem meam cum magna calamitate rei publicae esse conjunctam. Nunc jam aperte rem publicam universam petis: templa deorum immortalium, tecta urbis, vitam omnium civium, Italiam denique totam ad exitium et vastitatem vocas. Quare quoniam id, quod est primum et quod hujus imperii disciplinaeque majorum proprium est, facere nondum audeo, faciam id quod est ad severitatem lenius et ad communem salutem utilius. Nam si te interfici jussero, residebit in re publica reliqua conjuratorum manus. Sin tu, quod te jamdudum hortor, exieris, exhaurietur ex urbe tuorum comitum magna et perniciosa sentina rei publicae. Quid

5. *murus intersit.*] Plutarch (Cicero, c. 16) had read this passage of Cicero: *τέλος ἀναστὰς ὁ Κικέρων προσέταξεν αὐτῷ τῆς πόλεως ἀπαλλάττεσθαι· δεῖν γὰρ αὐτοῦ μὲν λόγοις, ἐκείνου δ' ὅπλοις πολιτευομένου μέσον εἶναι τὸ τεῖχος.*

huic—Statori,] The Senate was assembled in this temple, the origin of which was referred to the time of Romulus (Livy, i. 12).

in uno homine] Muretus says, he supposes that Catilina is meant, and not Cicero; and there is no doubt that he is right.—'comitiis consularibus;' see the Introduction. D. Junius Silanus and L. Licinius Murena were elected for the year B.C. 62. The learned jurist Servius Sulpicius was an unsuccessful candidate. (See the Oratio Pro Murena.)

hujus imperii, &c.] He means the extraordinary authority which the Senate conferred by the senatus consultum, 'Videant consules,' &c. He adds 'Nam si te interfici jussero.'

sentina rei publicae.] Compare De Lege Agraria, ii. c. 26. Vol. II., and Sallust, Cat. c. 37, where he is speaking of the population of Rome: "Primum omnium, qui ubique

est, Catilina? Num dubitas id me imperante facere quod jam tua sponte faciebas? Exire ex urbe jubet consul hostem. Interrogas me, num in exsilium? Non jubeo: sed si me consulis, suadeo.

VI. Quid est enim, Catilina, quod te jam in hac urbe delectare possit, in qua nemo est, extra istam conjurationem perditorum hominum, qui te non metuat, nemo qui non oderit? Quae nota domesticae turpitudinis non inusta vitae tuae est? Quod privatarum rerum dedĕcus non haeret infamiae? Quae libido ab oculis, quod facinus a manibus umquam tuis, quod flagitium a toto corpore abfuit? Cui tu adolescentulo, quem corruptelarum illecebris irretisses, non aut ad audaciam ferrum aut ad libidinem facem praetulisti? Quid vero? Nuper quum morte superioris uxoris novis nuptiis domum vacuefecisses, nonne etiam alio incredibili scelere hoc scelus cumulasti? Quod ego praetermitto et facile patior sileri, ne in hac civitate tanti facinoris immanitas aut exstitisse aut non vindicata esse videatur. Praetermitto ruinas fortunarum tuarum, quas omnes impendere tibi proximis Idibus senties: ad illa venio quae non ad privatam ignominiam vitiorum tuorum, non ad domesticam tuam difficultatem ac turpitudinem, sed ad summam rem publicam atque ad omnium nostrum vitam salutemque pertinent. Potestne tibi haec lux, Catilina, aut hujus caeli spiritus esse jucundus, quum scias horum esse neminem qui nesciat te pridie Kalendas Jan. Lepido et Tullo consulibus stetisse in comitio cum telo?

probro atque petulantia maxume praestabant, item alii per dedecora patrimoniis amissis, postremo omnes, quos flagitium aut facinus domo expulerat, ii Romam sicut in sentinam confluxerant."

6. *nota domesticae*] Sallust (Cat. c. 15) has given the scandalous history of Catilina. Cicero here speaks of Catilina having murdered his wife, which is not mentioned by any other writer; and may not be true. It was his fashion to say such things. The 'alio scelere' to which he alludes is the imputation of having put to death his own son (Introduction). Instead of 'Quod privatarum – infamiae,' Halm has 'Quod privatarum—in fama,' an emendation of Anton. Augustinus.

facem praetulisti?] We should now say 'led the way.' The Romans said 'lighted the way,' as was done at Rome when it was dark by slaves, who carried links. Horace's wild fellow (Sat. i. 4 v. 51) had links carried before him even before it was dark:

"Ebrius et, magnum quod dedecus, ambulat ante
Noctem cum facibus."

proximis Idibus] Catilina was in debt, and the Idus was the day when interest was paid on loans, and principal sums were got in; as Horace has it (Epode, ii.):

"Omnem redegit Idibus pecuniam;
Quaerit Kalendis ponere."

Cicero (Phil. ii. 34) speaks of a debt due on the Idus and payable on the following Kalendae. Cicero merely means that his insolvency will soon be notorious. His debts were his 'domestica—difficultas.' Elsewhere he has the expression 'difficultas rei nummariae.' In the oration Pro C. Rabirio, c. 8 (Vol. II.), he speaks of 'domestica vulnera' in the same sense.

summam rem publicam] See Vol. II., Pro Sext. Rosc. Amer., c. 51.

Lepido et Tullo] They were the consuls of B.C. 66. The consuls of B.C. 65 were L. Aurelius Cotta and L. Manlius Torquatus, whom Catilina is charged with designing to murder (Introd.). The Comitium was in the Forum Romanum.

manum consulum et principum civitatis interficiendorum caussa paravisse? sceleri ac furori tuo non mentem aliquam aut timorem [tuum] sed fortunam populi Romani obstitisse? Ac jam illa omitto

fortunam] Muretus has a long rhetorical note on the meaning of Fortuna, but his judgment and good sense were not equal to his skill in turning a phrase. Fortuna was deified at Rome, like other qualities, and she had temples. There was a temple of Fortuna Equestris (Liv, 40. c. 40), of Fortuna Fortis (Livy, 10. c. 46; Tacit. ii. c. 41), of Fortuna Muliebris (Livy, 2. c. 40). The antients, says Muretus, meant by Fortuna nothing else than the 'divina voluntas;' and it is a sign of this, he says, that Alcman called Fortune the sister of Justice and the daughter of Providence:

Ὦ Τύχα, Εὐνομίας τε καὶ Πειθοῦς ἀδελφὰ
Καὶ Προμαθείας θύγατερ.
Bergk, Poetae Lyrici Graeci, p. 550.

But he adds that this may be explained differently, and may mean that all things succeed with just and prudent men. So I think. If we had more than the fragment we might know better what the poet meant. Muretus concludes that among the ancients fortune, and perfect wisdom, and reason, and the soul of the world, and God were all different names for the same thing; among the wise, he says; for he knows that the vulgar and fools had a very different opinion. But even the wise did not always so understand Fortuna. Caesar, for instance, who has a curious remark on Fortuna (B. G. vi. 30), by which he means just what we mean when we say fortune, chance, without thinking any further about the matter than as a thing which happens accidentally, as it is said. The practical rule of life is contained in the words 'Fortes Fortuna adjuvat;' and accordingly the Romans built a temple to Fortuna Fortis after a victory over the Etruscans (Livy, 10. c. 46), near a temple dedicated to the same goddess by Servius Tullius. They began early to recognize the power of Fortuna. Ancus Marcius built the first temple of Fortuna, as Plutarch says. Plutarch has a treatise *Περὶ τῆς Ἀλεξάνδρου Τύχης ἢ Ἀρετῆς*, and another *Περὶ τῆς Ῥωμαίων Τύχης*. He says, "Virtue and Fortune, which have often had many great disputes with one another, have the greatest of all their disputes about the Roman supremacy, the question being whose work it is and which of them has engendered so mighty a power." He adds (c. 2): "For my part, though Fortune and Virtue have always been hostile and quarrelling with one another, I think that I judge right in concluding, that to effect such a consolidation of dominion and power, it is probable that they came together by making truce, and that then having come together, they perfected and laboured together to produce the noblest of all man's works." And this seems to be a very reasonable conclusion of the old philosopher, and the only way of settling the question. For it means that circumstances were favourable to the growth of the Roman dominion, and that the Romans had the qualities which enable men to make the most of their opportunities. The question is expressed in rather singular terms, but it is not an idle question. The great master of Polity, Machiavelli, has handled it (Discorsi, ii. c. 1). Plutarch, he says, and Livy thought that the Romans owed more to Fortune than to Virtue; but he is of a different opinion, which he thus expresses in his masculine style: "Perchè se non si è trovato mai repubblica, che abbia fatti i progressi che Roma, è nato che non si è trovata mai repubblica che sia stata ordinata a potere acquistare come Roma. Perchè la virtù degli eserciti gli fecero acquistare l'imperio, e l'ordine del procedere, e il modo suo proprio, e trovato dal suo primo Legislatore, gli fece mantenere l' acquistato, come di sotto largamente in più discorsi si narrerà." He has a chapter in Il Principe (c. 25) on the power of Fortune in human things and on the way of opposing it; and a chapter in the Discorsi (ii. c. 29), which is very curious: "Fortune blinds men's minds when she does not choose that they shall oppose her designs." Sallust says (Cat. c. 8): "Sed profecto Fortuna in omni re dominatur: ea res cunctas ex lubidine quam ex vero celebrat obscuratque." He is speaking of Fortune's power in making men's acts illustrious or obscure. The Athenians did great things, but, as Sallust supposes, not equal to the reputation that they got. The Athenians had men of talent, who made the exploits of their countrymen pass for the greatest in the world. Horace has an ode to Fortuna (i. 37, and the notes in Macleane's ed.).

So we speak of chance, of good fortune, of bad fortune, of Providence. A word indefinite in meaning, used by various people in various ways, is the outward expression of the undefined idea of some power which

—neque enim sunt aut obscura aut non multa commissa—quoties tu me designatum, quoties consulem interficere conatus es? Quot ego tuas petitiones, ita conjectas ut vitari non posse viderentur, parva quadam declinatione et, ut aiunt, corpore effugi. [Nihil agis,] nihil assequeris, [nihil moliris quod mihi latere valeat in tempore]; neque tamen conari ac velle desistis. Quoties tibi jam extorta est ista sica de manibus, quoties vero excidit casu aliquo et elapsa est, [tamen ea carere diutius non potes:] quae quidem quibus abs te initiata sacris ac devota sit nescio, quod eam necesse putas esse consulis in corpore defigere. VII. Nunc vero quae tua est ista vita? Sic enim jam tecum loquar, non ut odio permotus esse videar quo debeo, sed ut misericordia quae tibi nulla debetur. Venisti paullo ante in senatum. Quis te ex hac tanta frequentia, ex tot tuis amicis ac necessariis salutavit? Si hoc post hominum memoriam contigit nemini, vocis exspectas contumeliam, quum sis gravissimo judicio taciturnitatis oppressus? Quid, quod adventu tuo ista subsellia vacuefacta sunt? quod omnes consulares, qui tibi persaepe ad caedem constituti fuerunt, simul atque assedisti, partem istam subselliorum nudam atque inanem reliquerunt, quo tandem animo [hoc] tibi ferendum putas? Servi mehercle mei si me isto pacto metuerent, ut te metuunt omnes cives tui, domum meam relinquendam putarem: tu tibi urbem non arbitraris? et, si me meis civibus injuria suspectum tam graviter atque offensum viderem, carere me aspectu civium quam infestis oculis omnium conspici mallem: tu, quum conscientia scelerum tuorum agnoscas

governs all things, whose energy we vaguely conceive and cannot clearly express.

ut aiunt,] This is a proverbial expression introduced, as usual, by 'ut aiunt.' Halm explains it—I have escaped the blow only 'by my body's breadth;' or, as in German, 'nur mit einem Haar,' which we call 'a hair-breadth escape.' Bake (Cicero, De Legg. p. 291) proposes to read 'declinatione, ut aiunt, corporis effugi.' He asks, what does 'corpore effugi' mean? Lambinus raised a difficulty and proposed various corrections. —'posse non viderentur:' Halm.

nihil moliris—tempore;] There are great variations here; and the text is uncertain. —'tamen ea—non potes:' Halm considers these words are an interpolation from c. 9. He says that 'diutius carere' can only be said of a thing which we have not at the moment, as was the case with the eagle sent forward to the camp of Manlius.

devota sit] The weapon was to be dedicated to some deity after the act of murder was done with it. Lipsius, in his Excursus on Tacit. Ann. xv. 74, has collected examples of this (Halm). Klotz refers to Justin (ix. 7): "Gladium, quo rex percussus est, Apollini sub nomine Myrtiles consecravit (Olympias)."

7. *quae—nulla*] 'Nulla,' says Halm, is not the same as 'non,' which is true. It means 'none of which,' 'which in no degree is due to you.'

constituti fuerunt,] Halm quotes a remark of Madvig on 'fuerunt' (Opusc. alt. p. 219): "Habuisse Catilinam senatores ad caedem constitutos (non constituisse tantum) Cic. significat, et in eadem oratione c. 9 (constitutum fuit) non solum constitutum esse sacrarium dicit, sed cum esset semel constitutum, aliquamdiu mansisse."

Servi mehercle] This passage as far as 'relinquendam putarem' is cited by Quintilian (Inst. Or. viii. 4, 9) as an instance of "amplificatio, quae fit per comparationem, incrementum ex minoribus petit."

odium omnium justum et jam diu tibi debitum, dubitas, quorum mentes sensusque vulneras, eorum aspectum praesentiamque vitare? Si te parentes timerent atque odissent tui, neque eos ulla ratione placare posses, ut opinor, ab eorum oculis aliquo concederes: nunc te patria, quae communis est parens omnium nostrum, odit ac metuit, et jamdiu te nihil judicat nisi de parricidio suo cogitare; hujus tu neque auctoritatem verebere, neque judicium sequere, neque vim pertimesces? Quae tecum, Catilina, sic agit, et quodammodo tacita loquitur: Nullum jam aliquot annis facinus exstitit nisi per te, nullum flagitium sine te: tibi uni multorum civium neces, tibi vexatio direptioque sociorum impunita fuit ac libera: tu non solum ad negligendas leges ac quaestiones, verum etiam ad evertendas perfringendasque valuisti. Superiora illa, quamquam ferenda non fuerunt, tamen ut potui tuli: nunc vero me totam esse in metu propter te unum, quidquid increpuerit Catilinam timeri, nullum videri contra me consilium iniri posse quod a tuo scelere abhorreat, non est ferendum. Quamobrem discede atque hunc mihi timorem eripe; si est verus, ne opprimar; sin falsus, ut tandem aliquando timere desinam. VIII. Haec si tecum, ut dixi, patria loquatur, nonne impetrare debeat, etiamsi vim adhibere non possit? Quid, quod tu te ipse in custodiam dedisti? quid, quod vitandae suspicionis caussa ad M. Lepidum te habitare velle

Quae tecum—tacita] The Patria (la Patrie) does not speak, but she speaks in a manner, though she is silent. This, says Muretus, is a most beautiful example of Prosopopoea; and he supposes that Cicero imitated the passage in the Crito of Plato (c. 12), where the Law (οἱ νόμοι) expostulates with Socrates: Τί οὖν, ἂν εἴπωσιν οἱ νόμοι, Ὦ Σώκρατες, ἦ καὶ ταῦτα ὡμολόγητο ἡμῖν τε καὶ σοί, ἢ ἐμμένειν ταῖς δίκαις αἷς ἂν ἡ πόλις δικάζῃ; Socrates admits that there was a compact between himself and the Law, and on the admission of a falsehood the argument proceeds. He admits the Law to be the author of his existence; that with the aid of the Law his father took his mother and begat him. He was the son of the Law consequently, and owed to it the obedience of a son. The form of the Dialogue is lively and pleasing; the matter is absurd. Cicero's expostulation of the Patria is in a different tone, as it is for a different purpose.

neces,—vexatio] He was charged with having murdered people in the time of Sulla, and with having plundered the Provinciales when he was governor of Africa (Introd.).—'quaestiones.' See Vol. I. Index.

quidquid increpuerit] "Whenever there is a noise, that Catilina should be feared." So in the oration Pro Murena, c. 10, he says, "simul atque increpuit suspicio tumultus." Halm has 'propter unum te.'

8. *in custodiam*] Sallust (Cat. 47) has the expression 'in liberis custodiis haberentur,' which is explained by what follows. The men were put in the hands of the several persons who were appointed to keep them in custody. This was done when the crime was not proved or confessed. They were intrusted to the keeping of private persons instead of being put in prison. Catilina offered to surrender himself after the commencement of a prosecution De vi Publica by L. Paullus. (Introd.)

ad M. Lepidum] One of the consuls of B.C. 66. Halm says that many grammarians quote this passage as an instance of Cicero using 'ad' for 'apud.' Servius (Ad Aen. i. 28) is one of these grammarians. In his commentary on the line

> "Prima quod ad Trojam pro caris gesserat Argis,"

dixisti? a quo non receptus etiam ad me venire ausus es, atque ut domi meae te asservarem rogasti. Quum a me quoque id responsum tulisses, me nullo modo posse iisdem parietibus tuto esse tecum, qui magno in periculo essem quod iisdem moenibus contineremur, ad Q. Metellum praetorem venisti. A quo repudiatus, ad sodalem tuum, virum optimum, M. Metellum demigrasti; quem tu videlicet et ad custodiendum [te] diligentissimum, et ad suspicandum sagacissimum, et ad vindicandum fortissimum fore putasti. Sed quam longe videtur a carcere atque a vinculis abesse debere, qui se ipse jam dignum custodia judicarit? Quae quum ita sint, Catilina, dubitas, si emori aequo animo non potes, abire in aliquas terras, et vitam istam multis suppliciis justis debitisque ereptam fugae solitudinique mandare?

Refer, inquis, ad senatum: id enim postulas, et, si hic ordo placere [sibi] decreverit te ire in exsilium, obtemperaturum te esse

he says: "*Ad* et *apud* accusativae sunt praepositiones. Sed *apud* semper in loco significat, *Ad* et in loco et ad locum, ut Ad quem tum Juno supplex his vocibus usa est: et Cicero, Decem fiscos ad Senatorem quendam relictos (Vol. I. Verr. Act i. c. 8): item; Ad Marcum Leccam te habitare velle dixisti." The name of Marcus Lecca is an error. "Of the MSS. of Cicero only one, but that is the best (Lagomarsini, 62) confirms the testimony of the grammarians. The rest have *apud*." (Halm.)

qui—essem] "For I was in great danger because we were within the walls of the same city." Q. Metellus Celer was consul B.C. 60. On the news reaching Rome of Manlius occupying Faesulae, Q. Metellus Celer was sent into Picenum with authority to raise troops against the conspirators (Sallust, Cat. c. 30). When Catilina led his men into the territory of Pistoria with the intention of taking them by mountain roads over the Apennines into Gallia Cisalpina, Metellus moved to the foot of the Apennines and occupied the ground at the point where Catilina must come down. Metellus was in Catilina's rear, and as there was no hope of escape, he faced about and fought Antonius (Cat. 57).

Dion Cassius (37, c. 31) says, that on the arrival of the news from Etruria, the consuls were empowered by the form 'Darent operam consules' to defend the state; and the prosecution of Catilina De vi (*βίας γραφή*) was commenced. Catilina then offered to put himself 'in libera custodia' with Cicero (*τῷ Κικέρωνι αὐτῷ τηρεῖν ἑαυτὸν, ὅπως δὴ μὴ φεύγῃ που, παρεδίδου*). Cicero refused to take him, and he went and lived with Metellus, the praetor. In most of the MSS. of Cicero and in the common editions, M. Marcellus is named as the 'honest' man into whose hands Catilina put himself. Halm in his edition of 1851 reads 'ad M. Marcellum demigrasti,' but in the edition of 1854 (Orelli's 2nd ed.) he reads 'ad M. Metellum demigrasti,' which is the reading of the Cod. Med. numbered 62 by Lagomarsini, and the reading of the MSS. of Quintilian (ix. 2, 45), who cites the words 'optimum virum' as an example of irony, but he cites the name 'Metellum' without a 'praenomen.'

It is conjectured that M. Marcellus was the father of C. Marcellus, who was managing affairs for Catilina in Capua, and was driven out of the place by P. Sestius on the order of Cicero (Pro P. Sestio, c. 4). Orosius (vi. 6) speaks of some disturbance being made among the Peligni by the Marcelli, father and son, but it was checked after the discovery of Catilina's conspiracy: he adds, "et de utroque per Bibulum in Pelignis, per Ciceronem in Bruttiis vindicatum est." But all this is very uncertain. The man whom Cicero shortly afterwards calls 'fortissimo viro, M. Marcello,' cannot be the 'virum optimum, M. Marcellum' whom he is sneering at. It seems, then, that in the first passage we must read 'M. Metellum.'

The Marcellus mentioned in the second passage with P. Sestius was consul in B.C. 51, and a bitter opponent of Caesar. This is the man on whose behalf Cicero (B.C. 46) addressed to Caesar the Oratio Pro Marcello.

dicis. Non referam, id quod abhorret a meis moribus, et tamen faciam ut intelligas quid hi de te sentiant. Egredere ex urbe, Catilina, libera rem publicam metu; in exsilium, si hanc vocem exspectas, proficiscere. Quid est, Catilina? ecquid attendis? ecquid animadvertis horum silentium? Patiuntur, tacent. Quid exspectas auctoritatem loquentium, quorum voluntatem tacitorum perspicis? At si hoc idem huic adolescenti optimo, P. Sestio, si fortissimo viro, M. Marcello, dixissem, jam mihi consuli hoc ipso in templo jure optimo senatus vim et manus intulisset. De te autem, Catilina, quum quiescunt, probant; quum patiuntur, decernunt; quum tacent, clamant; neque hi solum, quorum tibi auctoritas est videlicet cara, vita vilissima, sed etiam illi equites Romani, honestissimi atque optimi viri, ceterique fortissimi cives, qui circumstant senatum, quorum tu et frequentiam videre et studia perspicere et voces paullo ante exaudire potuisti. Quorum ego vix abs te jamdiu manus ac tela contineo, eosdem facile adducam, ut te haec quae jampridem vastare studes relinquentem usque ad portas prosequantur.

IX. Quamquam quid loquor? Te ut ulla res frangat, tu ut umquam te corrigas, tu ut ullam fugam meditere, tu ut ullum exsilium cogites? Utinam tibi istam mentem dii immortales duint! tametsi video, si mea voce perterritus ire in exsilium animum induxeris, quanta tempestas invidiae nobis, si minus in praesens

a meis moribus,] "The true reason," says Halm, "was, that the Senate as such could not inflict the penalty of exile." Cicero does not say that the Senate could do it. The Senate might say what they thought would be best for Catilina to do; but Cicero knew that at this moment he could not easily have got from the Senate such an expression of opinion. Dion (37, c. 33) states that Catilina was driven from the city by a 'decretum' of the Senate. But Cicero in other passages (In Cat. ii. 6) contradicts this; and Sallust also (Cat. 32).

P. Sestio,] There is MSS. authority both for the forms Sestius and Sextius. There is little doubt that they are the same name, Sextius being the original. There are coins with the name *Sest.* on them. This P. Sestius was now (B.C. 63) the 'quaestor' of C. Antonius, Cicero's colleague. He was in the battle in Etruria, in which Catilina lost his life, and he contributed to the victory. In B.C. 57, being tr. pl., he was active in procuring Cicero's recal to Rome. There is extant a speech of Cicero Pro P. Sestio.

exaudire] The shouts penetrated into the Senate house. 'Exaudire' means to hear something at a distance, to hear what is not directly intended for the hearer, to hear when there is the obstacle of space or when something is in the way. Caesar (B. G. v. 39): "Interim confecta frumentatione milites nostri clamorem exaudiunt." Livy 11. c. 27: "Neque decretum exaudiri consulis prae strepitu ac clamore poterat." 'Voces' is 'vociferation,' 'cries.' In the Pro Cluentio, c. 10 (Vol. II.) there is 'vocesque morientis,' where the two best MSS. have 'voces,' and the rest have 'vocem.' Compare Livy, 24, c. 24: "Qui fessus tandem uxoris vocibus;" and Caesar, B. G. vi. 36: "simul eorum permotus vocibus."

9. *duint!*] This form is used by Terence, and by Tacitus (Ann. iv. 38) in a passage where an address is made to the gods, and it comes as it does here at the end of the sentence. 'Dent' is too abrupt an ending in such a formula as this.

tempus recenti memoria scelerum tuorum, at in posteritatem impendeat. Sed est tanti, dummodo ista privata sit calamitas et a rei publicae periculis sejungatur. Sed tu ut vitiis tuis commoveare, ut legum poenas pertimescas, ut temporibus rei publicae cedas, non est postulandum. Neque enim is es, Catilina, ut te aut pudor umquam a turpitudine aut metus a periculo aut ratio a furore revocaverit. Quamobrem, ut saepe jam dixi, proficiscere; ac, si mihi inimico, ut praedicas, tuo conflare vis invidiam, recta perge in exsilium. Vix feram sermones hominum, si id feceris: vix molem istius invidiae, si in exsilium jussu consulis ieris, sustinebo. Sin autem servire meae laudi et gloriae mavis, egredere cum importuna sceleratorum manu; confer te ad Manlium; concita perditos cives; secerne te a bonis; infer patriae bellum; exsulta impio latrocinio, ut a me non ejectus ad alienos sed invitatus ad tuos isse videaris. Quamquam quid ego te invitem a quo jam sciam esse praemissos qui tibi ad forum Aurelium praestōlarentur armati? cui sciam pactam et constitutam cum Manlio diem? a quo etiam aquilam illam argentĕam, quam tibi ac tuis omnibus perniciosam confido et funestam futuram, cui domi tuae sacrarium scelerum tuorum constitutum fuit, sciam esse praemissam? Tu ut illa diutius carere possis, quam venerari ad caedem proficiscens solebas? a cujus altaribus saepe istam impiam dexteram ad necem civium transtulisti? X. Ibis tandem aliquando quo te jampridem ista tua cupiditas effrenata ac furiosa rapiebat. Neque enim tibi haec res affert dolorem sed quandam incredibilem voluptatem. Ad hanc te

est tanti,] This is better than the reading 'est mihi tanti.' "It is," says Cicero, "worth it. For the state to get rid of you is ample compensation for any unpopularity or bad report that may fall on me." On 'invidia,' see Vol. II. Pro Cluentio, c. 2, note.

umquam a turpitudine] 'Umquam' is in no MS. of Cicero; but it is in the MSS. of Quintilian (Inst. ix. 3, 62) who quotes the passage: "Neque enim . . . . revocaverit."

forum Aurelium] A place in Etruria on the Via Aurelia, Monte Alto, as Cluver says, near the river Marta, or Martha. It is in the Antonine Itin. and in the Peutinger Table. The regular form is Forum Aurelii. The 'aquila' was the eagle that Marius had in the Cimbric war; or it was said to be (Sallust, Cat. 59). Not only the 'aquila' but the other standards were of silver (Pliny). The eagle alone was the symbol of Rome's victorious power from the time of C. Marius. The eagles in the camp were kept in a little chapel near the Praetorium, and were the object of a kind of veneration. Dion Cassius (40, c. 18, and the note in Reimarus' ed.) says that the "thing called the eagle, which is a small coffer (νεὼς μικρός) and a golden eagle is placed in it, is planted among all the legions raised from the muster rolls, and it is never moved from the winter quarters except when the whole army marches out any where; and one man carries it on a long pole, which terminates in a sharp point by which it can be fixed in the ground." It is remarked in the note of Reimarus on Dion that Lipsius (ad Taciti Annales ii. 17; and Lib. iv. De Militia Romana, Dial. 5) has confounded this little portable shrine or chest mentioned by Dion with the little chapel in the camp in which the Signa were adored, as Herodian says (iv. 4; v. 8).

amentiam natura peperit, voluntas exercuit, fortuna servavit. Numquam tu non modo otium, sed ne bellum quidem nisi nefarium concupisti. Nactus es ex perditis atque ab omni non modo fortuna verum etiam spe derelictis conflatam improborum manum. Hic tu qua laetitia perfruere, quibus gaudiis exsultabis, quanta in voluptate bacchabere, quum in tanto numero tuorum neque audies virum bonum quemquam neque videbis? Ad hujus vitae studium meditati illi sunt qui feruntur labores tui: jacere humi non solum ad obsidendum stuprum verum etiam ad facinus obeundum: vigilare non solum insidiantem somno maritorum, verum etiam bonis otiosorum. Habes ubi ostentes tuam illam praeclaram patientiam famis, frigoris, inopiae rerum omnium, quibus te brevi tempore confectum esse senties. Tantum profeci tum quum te a consulatu reppuli, ut exsul potius tentare quam consul vexare rem publicam posses; atque ut id, quod est abs te scelerate susceptum, latrocinium potius quam bellum nominaretur.

XI. Nunc, ut a me, patres conscripti, quandam prope justam patriae querimoniam detester ac deprecer, percipite, quaeso, diligen-

10. *Nactus es*] 'Nanctus es,' Halm, on the authority of one MS. It is probable that both forms were in use, 'nanc' and 'nac' being the same root, and 'nanc' the stronger form: as there is the root 'plag,' 'to strike,' and 'plang' and 'planc.'—'derelictis:' this compound has a stronger meaning than 'relictus.' Caesar (B. G. iii. 13) has 'ab aestu derelictae (naves),' according to some readings, but the common reading there is 'relictae.' Cicero (In Cat. i. 8) has used the word 'demigrasti.' There is a note in Vol. I. Verr. ii. 2, c. 36, on 'migrare' and 'emigrare.'"

illi qui feruntur—tui:] 'That discipline of yours which is talked about.' Sallust (Cat. c. 5) speaks of Catilina's endurance. Catilina in his youth committed many 'nefanda stupra' (Cat. 15), as Sallust says. 'Stuprum' is the commerce of a man with an unmarried woman, 'virginem viduamve' (Papinianus, Dig. 48, 5, 6); but it had also a more general signification. Cicero represents the man as lying on the ground to watch an opportunity of committing some foul act. 'Meditari' means here to 'practise.'

otiosorum.] The reading 'occisorum' can hardly be explained. Who are the 'occisi?' Gruter, who knew that there was a reading 'otiosorum,' says "quod examinabunt otiosiores me." The 'otiosi' are those who are off their guard; those who love quiet, and live in quiet.—'reppuli:' there is good authority for this form, and for 'repuli' also, but the quantity of the first syllable and the form of the perfect show that 'reppuli' is the genuine word. Cicero is alluding to the bold face which he presented to Catilina at the consular Comitia of this year (B.C. 63) when Silanus and Murena were elected. Some commentators suppose that Cicero alludes to his own election in B.C. 64; but I think not.

est—susceptum,] There is also the reading 'esset—susceptum.' Which must we have? Halm asks, "How the common reading 'esset—susceptum' differs from that in the text, which is taken from some of the best MSS.?" The reader may answer the question. It is not difficult.

11. *Nunc, ut*] Halm remarks that this justification of himself before the Patria bears the marks of cool reflection and careful calculation, and we cannot therefore suppose that Cicero uttered it in a speech, which in other respects has completely the character of an extemporary discourse. This dialogue with the Patria certainly has not the character of an extempore speech. It is a rhetorical ornament probably added by the consul when he prepared this speech for publication.

detester] This word is 'testari' with some additional energy put in it by the prefixing of the preposition 'de.' In Plautus it is used in the sense of 'testari deos.'

ter quae dicam, et ea penitus animis vestris mentibusque mandate. Etenim, si mecum patria, quae mihi vita mea multo est carior, si cuncta Italia, si omnis res publica loquatur: M. Tulli, quid agis? Tune eum, quem esse hostem comperisti, quem ducem belli futurum vides, quem exspectari imperatorem in castris hostium sentis, auctorem sceleris, principem conjurationis, evocatorem servorum et civium perditorum, exire patiere, ut abs te non emissus ex urbe sed immissus in urbem esse videatur? Nonne hunc in vincula duci, non ad mortem rapi, non summo supplicio mactari imperabis? Quid tandem te impĕdit? Mosne majorum? At persaepe etiam privati in hac re publica perniciosos cives morte mulctaverunt. An leges, quae de civium Romanorum supplicio rogatae sunt? At numquam in hac urbe qui a re publica defecerunt, civium jura tenuerunt. An invidiam posteritatis times? Praeclaram vero populo Romano refers gratiam, qui te, hominem per te cognitum, nulla commendatione majorum, tam mature ad summum imperium per omnes honorum gradus extulit, si propter invidiam aut alicujus periculi metum salutem civium tuorum negligis. Sed si quis est invidiae metus, num est vehementius severitatis ac fortitudinis invidia quam inertiae ac nequitiae pertimescenda? An quum bello vastabitur Italia, vexabuntur urbes, tecta ardebunt, tum te non existimas invidiae incendio conflagraturum? XII. His ego sanctissimis rei publicae vocibus, et eorum hominum qui hoc idem sentiunt mentibus pauca respondebo. Ego, si hoc optimum factu judicarem, patres conscripti, Catilinam morte mulctari, unius usuram horae gladiatori isti ad vivendum non dedissem. Etenim, si summi viri et clarissimi cives Saturnini et Gracchorum et Flacci

Its derived meanings are to curse, to pray that some evil or some blame may be averted, as in this passage.—'sic loquatur:' Quint. ix. 2. 32.

evocatorem servorum] When Marius landed in Etruria he 'proclaimed freedom to the slaves' (Plutarch, Marius, c. 41). His opponent Octavius refused to do it (Marius, c. 42). After Catilina had left Rome, Lentulus advised him to make use of the slaves, but he would not (Sallust, Cat. c. 44. 56), though they flocked to him in great numbers.

supplicio mactari] This is the sense of 'mactare' in which we render it to 'kill' or 'punish;' and there is no doubt that the word had this derived meaning. It has also the general sense of killing victims in sacrifice (Aen. iv. 57). Yet the word originally means to 'increase,' 'to add to a thing,' as in the example in Cicero's Republic, 'Ferunt laudibus, mactant honoribus,' quoted by Nonius.

An leges,] The Valeriae, Porcia, and Sempronia, to which Cicero often alludes. Vol. I. Verr. ii. 5. c. 63.—'invidiam posteritatis.' See Vol. II., Pro C. Rabirio, c. 10.

nulla commendatione] Compare the first chapter of the second oration In Rullum, Vol. II.

12. *usuram*] This word means the same as 'usus.' It is the having the use of a thing; as in the example in Cicero, Tusc. i. 39: "Natura dedit usuram vitae, tamquam pecuniae, nulla praestituta die."

Saturnini] L. Apuleius Saturninus. See the oratio Pro C. Rabirio, Vol. II. Flaccus is M. Fulvius Flaccus, who lost his life with C. Gracchus. See In Cat. i. c. 2, and In Cat. iv. c. 6.

et superiorum complurium sanguine non modo se non contaminarunt, sed etiam honestarunt, certe mihi verendum non erat, ne quid hoc parricida civium interfecto invidiae [mihi] in posteritatem redundaret. Quod si ea mihi maxime impenderet, tamen hoc animo semper fui, ut invidiam virtute partam gloriam non invidiam putarem. Quamquam nonnulli sunt in hoc ordine, qui aut ea quae imminent non videant, aut ea quae vident dissimulent; qui spem Catilinae mollibus sententiis aluerunt, conjurationemque nascentem non credendo corroboraverunt; quorum auctoritatem secuti multi non solum improbi, verum etiam imperiti, si in hunc animadvertissem, crudeliter et regie factum esse dicerent. Nunc intelligo, si iste quo intendit in Manliana castra pervenerit, neminem tam stultum fore qui non videat conjurationem esse factam, neminem tam improbum qui non fateatur. Hoc autem uno interfecto, intelligo hanc rei publicae pestem paullisper reprimi, non in perpetuum comprimi posse. Quod si se ejecerit secumque suos eduxerit et eodem ceteros undique collectos naufragos aggregaverit, exstinguetur atque delebitur non modo haec tam adulta rei publicae pestis, verum etiam stirps ac semen malorum omnium. XIII. Etenim jamdiu, patres conscripti, in his periculis conjurationis insidiisque versamur; sed nescio quo pacto omnium scelerum ac veteris furoris et audaciae maturitas in nostri consulatus tempus erupit. Quod si ex tanto latrocinio iste unus tolletur, videbimur fortasse ad breve quoddam tempus cura et metu esse relevati, periculum autem resi-

Quamquam nonnulli] In this sentence there are 'qui—non videant, aut—dissimulent;' and 'qui spem aluerunt—corroboraverunt.' Halm observes that 'qui aluerunt' does not stand on the same line (steht nicht coordinirt) with 'qui videant,' which occupies the place of a predicate. He means that there are some persons of the class or kind of persons who do not see what is before them. The affirmative proposition is 'nonnulli sunt qui non videant,' where 'nonnulli' is the subject, 'sunt' the copula, as it is called, and 'qui non videant' the predicate. But it is as easy to turn this the other way, and say that 'qui—non videant' expresses the subject; 'those who see not' are some 'nonnulli;' for the persons spoken of are not 'some,' but the persons spoken of are 'those who see not;' and they are not five or six, or many, but 'some.' It is in fact a mistake to call this subjunctive clause the predicate. When we speak of persons who have or not certain opinions, we make them the subject of our judgment, and we attach to such persons the idea of wise or foolish, or few or many, which is our judgment of them, and what is commonly called a predicate. It is only a Roman form of expression, which requires the subjunctive in such cases. The indicative is used in the other part of the sentence, 'qui—aluerunt,' simply, I think, because it is farther removed from 'Quamquam nonnulli sunt,' and the speaker returns to the direct and usual form.

13. *jamdiu,*] Since the consulship of Lepidus and Tullus. Compare Pro Murena, c. 38: "Omnia quae per hoc triennium agitata sunt, jam ab eo tempore quo a L. Catilina et Cn. Pisone initum consilium senatus interficiendi scitis esse, in hos dies, in hos menses, in hoc tempus erumpunt."

residebit] Here we have a form of 'resīde,' a word of the second conjugation. Caesar (B. G. vii. 77) has the same form and the same meaning: "cum iis mihi res

debit et erit inclusum penitus in venis atque in visceribus rei publicae. Ut saepe homines aegri morbo gravi, quum aestu febrique jactantur, si aquam gelidam biberint, primo relevari videntur, deinde multo gravius vehementiusque afflictantur, sic hic morbus, qui est in re publica, relevatus istius poena vehementius reliquis vivis ingravescet. Quare secedant improbi, secernant se a bonis, unum in locum congregentur; muro denique, id quod saepe jam dixi, discernantur a nobis; desinant insidiari domi suae consuli, circumstare tribunal praetoris urbani, obsidere cum gladiis curiam, malleolos et faces ad inflammandam urbem comparare: sit denique inscriptum in fronte unius cujusque quid de re publica sentiat. Polliceor hoc vobis, patres conscripti, tantam in nobis consulibus fore diligentiam, tantam in vobis auctoritatem, tantam in equitibus Romanis virtutem, tantam in omnibus bonis consensionem, ut Catilinae profectione omnia patefacta, illustrata, oppressa, vindicata esse videatis.

Hisce ominibus, Catilina, cum summa rei publicae salute [et] cum tua peste ac pernicie, cumque eorum exitio, qui se tecum omni scelere parricidioque junxerunt, proficiscere ad impium bellum ac

sit qui eruptionem probant, quorum in consilio, omnium vestrum consensu, pristinae residere virtutis memoria videtur." The metaphor is derived from a thing sinking down and settling at the bottom. Here the being at the bottom is only expressed, and the settling down (resīd) is implied. In this sentence there are two examples of the prefix 're,' the common notion of which is the expression of an act or event which corresponds to another, sometimes as an effect, sometimes as the same act or event, but viewed from the opposite point. In such cases as 'ire,' 'redire,' 'dare,' 'reddere,' the opposition is manifest. In other cases the 're' is not opposed to another word, which is expressed, but the 're' has a reference to some antecedent of which it expresses a result, or a consequence. He who is 'aestu febrique relevatus,' has his care lightened and his fear removed by something which precedes the alleviation. A man in chains is 'vinctus;' anchors fastened to ships by cables are 'revinctae;' "ancorae pro funibus ferreis catenis revinctae" (Caesar, B. G. iii. 13). Compare another passage in Caesar (B. G. iv. 17): "quibus disclusis et in contrariam partem revinctis."

biberint] Halm remarks that Madvig (Latein. Sprachl. § 335) according to a rule laid down by him would write 'biberunt.' Halm says that this would be necessary "if *aquam gelidam bibere* was something common;" I suppose he means, if people who are hot and feverish always drunk water; and his remark is then true. 'If they have drunk' the water is a form of the indicative. 'If they drink water,' as we say, or 'if they shall or should drink water,' as we should more properly say, requires the form 'biberint.' Halm refers to Seyffert's Cic. Laelius, p. 346.

praetoris urbani,] He was L. Valerius Flaccus, praetor urbanus; whom Cicero afterwards defended in an extant oration (Pro Flacco, c. 1, 2).—'malleolos:' this word is a diminution of 'malleus,' a mallet or wooden hammer. 'Malleolus' also means the shoot of a vine, and Columella describes it (iii. 6): "Malleolus autem novellus est palmes innatus prioris anni flagello, cognominatusque ad similitudinem, quod in ea parte, qua deciditur ex vetere sarmento, prominens utrinque mallei speciem praebet." Here it means inflammable missiles, intended to burn a town or other place. Livy (42, c. 64): "ratus incendio opportuna esse, faces taedamque et malleolos stuppae illitos pice parari jubet."—'ominibus:' the correction of Naugerius. The MSS. have 'omnibus.'

nefarium. Tu, Juppiter, qui iisdem quibus haec urbs auspiciis a Romulo es constitutus, quem Statorem hujus urbis atque imperii vere nominamus, hunc et hujus socios a tuis [aris] ceterisque templis, a tectis urbis ac moenibus, a vita fortunisque civium omnium arcebis, et homines bonorum inimicos, hostes patriae, latrones Italiae, scelerum foedere inter se ac nefaria societate conjunctos, aeternis suppliciis vivos mortuosque mactabis.

Tu, Juppiter—auspiciis] It was a tradition that Romulus in the Sabine war vowed to build a temple to Jupiter Stator (c. 5). But the temple was not built till B.C. 294 as Livy says (x. 37).

tuis aris] The word 'aris' is omitted in some MSS.; and Halm omits it. But I doubt if he has done right.—'homines:' there is also 'omnes homines,' and 'omnes.' 'Homines' is the right reading, I think. 'Homines' and 'omnes' are often confounded, and 'omnibus' and 'ominibus' (c. 13).

M. TULLII CICERONIS

IN

L. CATILINAM

ORATIO SECUNDA,

AD QUIRITES.

I. Tandem aliquando, Quirites, L. Catilinam, furentem audacia, scelus anhelantem, pestem patriae nefarie molientem, vobis atque huic urbi ferro flammaque minitantem, ex urbe vel ejecimus vel emisimus vel ipsum egredientem verbis prosecuti sumus. Abiit, excessit, evasit, erupit. Nulla jam pernicies a monstro illo atque prodigio moenibus ipsis intra moenia comparabitur. Atque hunc quidem unum hujus belli domestici ducem sine controversia vicimus. Non enim jam inter latera nostra sica illa versabitur; non in campo, non in foro, non in curia, non denique intra domesticos parietes pertimescemus. Loco ille motus est quum est ex urbe depulsus. Palam jam cum hoste nullo impediente bellum justum

1. *Tandem aliquando,*] Cicero, in one of his letters to Atticus (i. 14), mentions a speech of Crassus in the Senate, in which Crassus spoke in this same magniloquent style of the services that Cicero had rendered to his country in his consulship; and he adds: "Quid multa? Totum hunc locum, quem ego varie meis orationibus, quarum tu Aristarchus es, soleo pingere, de flamma, de ferro—nosti illas λημύθους—valde graviter pertexuit."

ferro flammaque] This is the reading of three of Halm's best MSS. The distinction between 'ferrum flammamque' and 'ferro flammaque' is, as Madvig says, that the ablative denotes the instrument or means. Cicero uses the ablative with 'minitari' in other passages (Philipp. xi. 14; xiii. 21). Klotz quotes from Cicero (Tuscul. Disput. i. 43): "cui quum rex Lysimachus crucem minitaretur;' and he says that 'crux' more distinctly expresses the death on the cross than if Cicero had used 'cruce.' But I cannot see that.—'vel—vel—vel:' the orator gives his hearers the choice of any one of the three expressions.

verbis prosecuti sumus.] 'Prosequi' is often used with an ablative. It is a word that expresses the following of a man, the accompanying him a certain distance. Here the meaning is fixed by 'verbis,' 'we accompanied him with our words;' which appear to refer to the first oration, as Halm thinks. Other explanations have been given.

bellum justum] 'Justum' is omitted in three good MSS.; but I see no reason for rejecting it; for though Cicero says "we shall now carry on the war with our enemy without any hindrance," there seems some propriety in saying 'bellum justum,' or 'a

geremus. Sine dubio perdidimus hominem magnificeque vicimus, quum illum ex occultis insidiis in apertum latrocinium conjecimus. Quod vero non cruentum mucronem, ut voluit, extulit, quod vivis nobis egressus est, quod ei ferrum e manibus extorsimus, quod incolumes cives, quod stantem urbem reliquit, quanto tandem illum maerore esse afflictum et profligatum putatis? Jacet ille nunc prostratus, Quirites, et se perculsum atque abjectum esse sentit, et retorquet oculos profecto saepe ad hanc urbem quam e suis faucibus ereptam esse luget; quae quidem laetari mihi videtur quod tantam pestem evomuerit forasque projecerit.

II. At si quis est talis, quales esse omnes oportebat, qui in hoc ipso in quo exsultat et triumphat oratio mea me vehementer accuset, quod tam capitalem hostem non comprehenderim potius quam emiserim, non est ista mea culpa, sed temporum. Interfectum esse L. Catilinam et gravissimo supplicio affectum jampridem oportebat, idque a me et mos majorum et hujus imperii severitas et res publica postulabat. Sed quam multos fuisse putatis qui quae ego deferrem non crederent, quam multos qui etiam defenderent, quam multos qui propter improbitatem faverent? Ac si illo sublato depelli a vobis omne periculum judicarem, jampridem ego L. Catilinam non modo invidiae meae, verum etiam vitae periculo sustulissem. Sed quum viderem, ne vobis quidem omnibus re etiam tum probata, si illum ut erat meritus morte mulctassem, fore ut ejus socios invidia oppressus persequi non possem, rem huc deduxi, ut tum palam pugnare possetis quum hostem aperte videretis; quem quidem ego hostem, Quirites, quam

regular war.' Nor is it any objection that he has said 'palam,' and that 'justum' is therefore unnecessary. It is unnecessary for the sense certainly; but the same meaning may be expressed with more or less force, with more or fewer words; and Cicero is not a writer who is sparing of words.—'mihi laetari,' Halm.

2. *deferrem*] 'Laid before the senate.' It is the usual word to express this meaning.

crederent,] This is followed in some editions by "quam multos qui propter stultitiam non putarent?" which is omitted in five MSS. (Halm.) Halm also thinks that the clause 'quam multos qui—faverent' is a gloss; and for three reasons. First, there is no essential difference between this clause and the preceding; second, the absolute use of 'faverent' causes a difficulty, for we cannot supply 'Catilinae,' but can only bring it in connexion with 'quae ego deferrem;' third, if 'quam—defenderent' is followed by a third clause, yet the emphatic 'etiam' in the second makes a difficulty, for we should rather expect it in the third than in the second clause. But these words are in all the MSS.; which is a sufficient reason for keeping them, notwithstanding the three reasons.

Sed quum viderem,] "But seeing, if I had not convinced all of you of the truth of the conspiracy even when I had punished Catiline with death as he deserved, that under the load of unpopularity I should not have been able to follow up his associates, I have brought the matter to this point; I have enabled you to fight openly when you could see the enemy before you."—'rem huc deduxi:' Horace (Sat. i. 1. v. 14) has the same form:—

"Ne te morer, audi,
Quo rem deducam."

vehementer foris esse timendum putem, licet hinc intelligatis, quod [illud] etiam moleste fero quod ex urbe parum comitatus exierit. Utinam ille omnes secum suas copias eduxisset. Tongilium mihi eduxit, quem amare in praetexta coeperat: Publicium et Minucium, quorum aes alienum contractum in popina nullum rei publicae motum afferre poterat: reliquit quos viros, quanto aere alieno, quam valentes, quam nobiles! III. Itaque ego illum exercitum et Gallicanis legionibus et hoc delectu, quem in agro Piceno et Gallico Q. Metellus habuit, et his copiis quae a nobis quotidie comparantur, magno opere contemno; collectum ex senibus desperatis, ex agresti luxuria, ex rusticis decoctoribus, ex iis qui vadimonia deserere quam illum exercitum maluerunt; quibus ego non modo si aciem exercitus nostri, verum etiam si edictum praetoris ostendero, concident. Hos quos video volitare in foro, quos stare ad curiam, quos etiam in senatum venire, qui nitent unguentis, qui fulgent purpura, mallem secum milites eduxisset; qui si hic permanent, mementote non tam exercitum illum esse nobis quam hos qui exercitum deseruerunt pertimescendos. Atque hoc etiam sunt timendi magis quod quid cogitent me scire sentiunt, neque tamen

parum comitatus] His fear is of course ironically expressed. He did not fear him at all. Catilina left Rome with three hundred armed men, and went to Manlius (Plutarch, Cicero, c. 16).—'in praetexta:' while he was still a youth 'praetextatus;' before he had assumed the 'toga virilis.' The word 'calumnia' stands after 'praetexta' in all the MSS. except one good Munich MS. (Halm.) But there can be no doubt that it is an interpolation.

3. *et Gallicanis*] The reading of the MSS. is 'ex Gallicanis.' Muretus wrote 'et Gallicanis,' following a MS. Lambinus found 'pro' instead of 'et' in one very old MS., and he accordingly recommends 'prae,' which Halm has in the second edition of Orelli. But 'et' may be right. Cicero says, "Accordingly that army of his, while we have our Gallican legions, &c., I completely despise." There were legions in Gallia Cisalpina, and those which Q. Metellus Celer was raising (Sallust, Cat. c. 30). The Ager Gallicus is the tract along the coast of the Hadriatic, once the country of the Galli Senones, which contained Ariminum and Ravenna.—'delectu:' there is also the form 'dilectu,' which Halm has.

desperatis,] We have adopted the word 'desperate,' but it is difficult to say if we use it exactly in the Roman sense. It means men who have no hope, or men of whom there is no hope. Caesar (B. G. vii. 3) has 'desperatis hominibus;' and Cicero, "oppresso jam desperatoque ab omnibus opitulata est" (Pro Sex. Rosc. Am. c. 10. Vol. II.).

decoctoribus,] 'Decoquere' means to 'boil well,' as in Horace (Sat. ii. 1. v. 73):—

> "discincti ludere donec
> Decoqueretur olus."

It also means to 'boil down,' 'to reduce a liquid by boiling:' "Nonnulli, quibus non fuit curae caelestem inveterare aquam, recentem sumunt, eamque usque in quartam partem decoquunt" (Columella, xii. 12). A man who had wasted his property by luxurious living was said 'decoxisse' (Cic. Phil. ii. c. 18). Persius (Sat. 5. v. 57), using a bold figure, says,

> "Hic campo indulget, hunc alea decoquit."

The Lex Roscia fixed a certain place in the theatres for 'decoctores.'

vadimonia deserere] See Vol. I. Verr. ii. 3. c. 15; and the oration Pro P. Quintio, Vol. II.

fulgent purpura,] He means the senators, says Muretus; for the senators only wore a purple tunic with a 'latus clavus.'

permoventur. Video cui sit Apulia attributa, quis habeat Etruriam, quis agrum Picenum, quis Gallicum, quis sibi has urbanas insidias caedis atque incendiorum depoposcerit. Omnia superioris noctis consilia ad me delata esse sentiunt: patefeci in senatu hesterno die: Catilina ipse pertimuit, profugit. Hi quid exspectant? Ne illi vehementer errant, si illam meam pristinam lenitatem perpetuam sperant futuram.

IV. Quod exspectavi jam sum assecutus, ut vos omnes factam esse aperte conjurationem contra rem publicam videretis; nisi vero si quis est qui Catilinae similes cum Catilina sentire non putet. Non est jam lenitati locus: severitatem res ipsa flagitat. Unum etiam nunc concedam: exeant, proficiscantur, ne patiantur desiderio sui Catilinam miserum tabescere. Demonstrabo iter: Aurelia via profectus est: si accelerare volent, ad vesperam consequentur. O fortunatam rem publicam, si quidem hanc sentinam [hujus] urbis ejecerit. Uno mehercule Catilina exhausto, relevata mihi et recreata res publica videtur. Quid enim mali aut sceleris fingi aut cogitari potest quod non ille conceperit? Quis tota Italia veneficus, quis gladiator, quis latro, quis sicarius, quis parricida, quis testamentorum subjector, quis circumscriptor, quis ganeo, quis

attributa,] "Assigned as the field of operations by Catilina." Sallust (Cat. c. 27) says that Catilina assigned Faesulae to Manlius, and that part of Etruria; one Septimius Camers had the Ager Picenus; and C. Julius had Apulia. Muretus thinks that C. Julius cannot be meant here, because Cicero is speaking of persons who are still in the city; nor Manlius, for he had long since gone to Etruria. But Cicero does not mean that he saw all these men before him.

superioris noctis] Of course he does not mean the night immediately preceding. This speech was delivered the day after the first speech, as the words 'hesterno die' show; and in his first speech he exposed the designs formed at the meeting on a night before the day on which he made that speech. —'delata:' 'perlata,' Halm.

Ne illi] "The usual way of writing *nae* seems to be found in no MS." (Halm.)

4. *nisi vero si quis est*] Halm observes that the use of 'si' after 'nisi' is rare in Cicero, but established by sufficient examples. In this case he says that 'nisi' has exactly the force of an adverb, 'except.' We also find 'nisi si quis.' Halm (Orelli's edition) has 'nisi vero [si] quis.' Madvig erases 'si.'

Aurelia via] This road went from Rome through the west part of Etruria. It touched the coast of Etruria at Alsium, about twenty miles from Rome, and was continued along the coast of Etruria through Cosa to Pisae (Pisa), on the lower part of the Arno. It was afterwards continued along the coast from Pisae through Genua to Forum Julii (Fréjus) in Gallia.

subjector,] 'Testamentum subjicere' means to forge a will, an expression which Cicero uses (Philipp. xiv. 3): "Testamenta, credo, subjiciunt, aut ejiciunt vicinos, aut adolescentulos circumscribunt." The notion of knavishly putting the false for the true is in this sense of 'subjicere,' as it is in the Greek ὑποβάλλεσθαι, ὑποβολιμαῖος. The word 'circumscribere,' 'to draw a line around,' expresses clearly the notion of cheating (Vol. I. Verr. ii. 2. c. 61; Vol. II. Pro Rosc. Com. c. 8). A Lex Plaetoria, which Cicero mentions (De Off. iii. 15), had for its object to prevent those under twenty-five years of age from being cheated: "Atque iste dolus malus etiam legibus erat vindicatus, ut tutela XII tabulis et circumscriptio adolescentium lege Plaetoria;" where some editions incorrectly have 'Laetoria.'

Sallust (Cat. c. 14) has given the same picture of the vices of Catilina. We can-

nepos, quis adulter, quae mulier infamis, quis corruptor juventutis, quis corruptus, quis perditus inveniri potest qui se cum Catilina non familiarissime vixisse fateatur? Quae caedes per hosce annos sine illo facta est; quod nefarium stuprum non per illum? Jam vero quae tanta umquam in ullo homine juventutis illecebra fuit quanta in illo? qui alios ipse amabat turpissime, aliorum amori flagitiosissime serviebat; aliis fructum libidinum, aliis mortem parentum non modo impellendo verum etiam adjuvando pollicebatur. Nunc vero quam subito, non solum ex urbe, verum etiam ex agris ingentem numerum perditorum hominum collegerat. Nemo non modo Romae, sed ne ullo in angulo totius Italiae oppressus aere alieno fuit, quem non ad hoc incredibile sceleris foedus asciverit. V. Atque ut ejus diversa studia in dissimili ratione perspicere possitis, nemo est in ludo gladiatorio paullo ad facinus audacior qui se non intimum Catilinae esse fateatur, nemo in scena levior et

not tell how much we should believe; but Plutarch's story (Cicero, c. 10) of his living in incestuous commerce with his daughter requires more evidence than common report.

Jam vero—illecebra] We are curious to know the real character of a man who conceived the design of this revolution which threatened Rome. Cicero allows that he had great talents (In Cat. iii. 7); and in a passage quoted by Halm from the oration Pro Caelio (c. 6), which was written later than this, he gives him credit for some good qualities and great versatility of talent. It is difficult to say what Catilina's character really was, for his enemies probably exaggerated his vices and said as little as they could of his virtues, if he had any. He had at least some qualities which a brave and a good man ought to have. All that Cicero says about Catilina in the oration Pro Caelio (c. 4, &c.) is worth reading.

ne ullo in angulo] Halm has 'ne ullo quidem in angulo,' the reading of one MS. But 'ne ullo in angulo' is the reading of his other MSS. One MS. has 'nullo in angulo.' 'Nec ullo in angulo,' which is printed in some editions, is the reading of Lambinus, and I do not know if there is any MSS. authority for it. Th. Mommsen would read 'sed ullo in angulo.' The negatives in Latin and in all languages are a great difficulty. If logical accuracy were a safe guide, we might determine when they should be used and when they should not; but custom has in many cases settled the matter, contrary to what it ought to be. Mommsen is right so far as the sense is concerned, for Cicero says this: "Not to mention Rome (non modo), but in any corner of all Italy there was not a person (nemo—fuit) loaded with debt, whom he did not associate in this incredible league of crime." But probably the Roman formula requires 'ne ullo quidem in angulo.'

5. *diversa studia*] 'Diversa' literally means turned in contrary directions, and we may accordingly translate 'diversa studia' by 'opposite pursuits.' He adds 'in dissimili ratione.' Such forms of expression are very difficult to translate. Halm translates it: 'widerstrebende Neigungen in verschiedenartiger Richtung (Bereiche).' But this is no translation of 'in dissimili ratione.' Cicero means that Catilina's energies were turned in opposite directions, as the objects to which he directed them were different. The translation of Latin often fails, because we attempt to keep a form of expression which is entirely different from any thing that we have.

esse fateatur] These words are wanting in three MSS. (Halm.) If they were omitted 'fuisse commemoret' would belong to both members of the sentence, and the change from '*esse* fateatur' to '*fuisse* commemoret' would be avoided. But Cicero may have chosen to express himself as it stands in the text. Halm observes that 'sodalis' is more than 'intimus.' A passage is quoted from Q. Cicero, De Petitione consulatus, c. 3, where he says of Catilina: "qui postea cum histrionibus et cum gladiatoribus ita vixit ut alteros libidinis, alteros facinorum adjutores haberet."

in scena] Actors were Infames. "Qui

nequior qui se non ejusdem prope sodalem fuisse commemoret. Atque idem tamen stuprorum et scelerum exercitatione assuefactus, frigore et fame et siti ac vigiliis perferendis fortis ab istis praedicabatur, quum industriae subsidia atque instrumenta virtutis in libidine audaciaque consumeret. Hunc vero si secuti erunt sui comites, si ex urbe exierint desperatorum hominum flagitiosi greges, o nos beatos, o rem publicam fortunatam, o praeclaram laudem consulatus mei. Non enim jam sunt mediocres hominum libidines, non humanae ac tolerandae audaciae: nihil cogitant nisi caedem, nisi incendia, nisi rapinas: patrimonia sua profuderunt: fortunas suas obligaverunt: res eos jampridem, fides nuper deficere coepit: eadem tamen illa quae erat in abundantia libido permanet. Quod si in vino et alea comissationes solum et scorta quaererent, essent illi quidem desperandi sed tamen essent ferendi. Hoc vero quis ferre possit, inertes homines fortissimis viris insidiari, stultissimos prudentissimis, ebriosos sobriis, dormientes vigilantibus? qui mihi accubantes in conviviis, complexi mulieres impudicas, vino languidi, conferti cibo, sertis redimiti, unguentis obliti, debilitati stupris, eructant sermonibus suis caedem bonorum atque urbis incendia. Quibus ego confido impendere fatum aliquod et poenam jamdiu improbitati, nequitiae, sceleri, libidini debitam, aut instare jam plane aut certe appropinquare. Quos si meus consulatus, quoniam sanare non potest, sustulerit, non breve nescio quod

artis ludicrae pronunciandive caussa in scenam prodierit." Lanistae were included (Tab. Heracl. lin. 123). Compare Pro Rosc. Com. c. 6. Vol. II.

idem tamen] Muretus has one of his rhetorical notes on this passage, on the 'diversa studia,' Catilina's love of arms and love of women. He says: "Omnino tamen compertum est homines bellicosos et armorum studio addictos in Venerem proclives esse:" and he goes on to give the reason for it in his silly note. The 'homines bellicosi,' when they have nothing to do, are very like other idle people.

obligaverunt:] The common reading is 'abliguricrunt,' for which the only authority that Halm cites is Lambinus and a codex of Muretus, who says upon the reading 'obliguricrunt,' which I suppose once appeared in the printed books: "Unus e veteribus libris, *abligurierunt*, idque fortasse verius est, nam obliguriendi verbum non memini alibi legere." The two words are easily confounded. 'Fortunas,' which is often used to signify a man's property, may mean here lands and houses. 'Obligare' is applied to the contract of pledge or hypothecation, as in In Rullum (iii. 2. Vol. II.): "Praedia soluta meliore in caussa sunt quam obligata." The debtor or borrower is said 'res obligare,' and the things are said to be 'obligatae.' "Si debitor res suas duobus simul pignori obligaverit, ita ut utrique in solidum obligatae essent," &c. (Ulpian, Dig. 20. 1. 10.)

qui mihi accubantes] This is the dative, which we cannot render, nor does Muretus help us by saying that it is 'praeclarum exemplum ὑποτυπώσεως sive subjectionis;' nor Halm by calling it 'Dativ der mittelbaren Betheiligung,' whatever he means by this. It is a dative which presents to the reader's mind the speaker and those of whom he speaks in proximity, in contrast. But Halm understands it right. It means "who while I am consul, reclining at their banquets . . . . belch forth their talk of the massacre of honest people and the conflagration of the city."—'conferti cibo:' there is a reading 'confecti cibo,' which Muretus prefers.

tempus, sed multa saecula propagarit rei publicae. Nulla est enim natio quam pertimescamus; nullus rex qui bellum populo Romano facere possit. Omnia sunt externa unius virtute terra marique pacata. Domesticum bellum manet: intus insidiae sunt: intus inclusum periculum est: intus est hostis. Cum luxuria nobis, cum amentia, cum scelere certandum est. Huic ego me bello ducem profiteor, Quirites: suscipio inimicitias hominum perditorum. Quae sanari poterunt, quacumque ratione sanabo; quae resecanda erunt, non patiar ad perniciem civitatis manere. Proinde aut exeant aut quiescant, aut, si et in urbe et in eadem mente permanent, ea quae merentur exspectent.

VI. At etiam sunt qui dicant, Quirites, a me in exsilium ejectum esse Catilinam. Quod ego si verbo assequi possem, istos ipsos ejicerem qui haec loquuntur. Homo enim videlicet timidus et permodestus vocem consulis ferre non potuit: simul atque ire in exsilium jussus est, paruit. Quid, ut hesterno die quum domi meae paene interfectus essem, senatum in aedem Jovis Statoris convocavi, rem omnem ad patres conscriptos detuli—quo quum Catilina venisset, quis eum senator appellavit, quis salutavit, quis denique ita aspexit ut perditum civem, ac non potius ut importunissimum hostem? quin etiam principes ejus ordinis partem illam subselliorum ad quam ille accesserat nudam atque inanem reliquerunt—hic ego vehemens ille consul, qui verbo cives in exsilium ejicio, quaesivi a Catilina in nocturno conventu apud M. Laecam fuisset necne. Quum ille, homo audacissimus, conscientia convictus, primo reticuisset, patefeci cetera; quid ea nocte egisset, ubi fuisset, quid in proximam constituisset, quemadmodum esset ei ratio totius

propagarit] This is a metaphor derived from horticulture. 'Propagare' is to 'fasten (paga) forwards,' to fix in the earth the shoot of a tree that it may take root. Columella (De Arb. c. 7) describes it. The shoot is left to adhere to the mother till it has got a root of its own. Virgil (Georg. ii. 26) expresses it thus:—

"Silvarumque aliae pressos propaginis arcus
Expectant et viva sua plantaria terra."

The word was then used in the sense of 'extending' generally. We have no corresponding word; no word which expresses the meaning and retains the metaphor. The word 'propagate' has not the original Latin signification.

unius] One man; his great friend for the present, Cn. Pompeius.—'intus insidiae:' compare Pro Murena, c. 37.

6. *Quod ego si*] "Now if I could have done that by a word, I would eject the very men who say so." — 'permodestus:' Halm remarks that the signification of 'modestus' often passes into that of 'compliant,' 'obedient,' as in the expression 'militaris modestia,' which means 'military subordination.'

Quid, ut hesterno—fuisset necne.] I have followed Halm in the reading and pointing of this passage. With 'hic ego' commences the clause which corresponds to 'Quid, ut hesterno.'

in proximam] This is the night which followed the night after the meeting at Laeca's house, the night which preceded the day on which he made his first speech in the Senate. The 'ea nocte' here is the 'superiore nocte' of i. c. 1. Compare i. c. 4.

belli descripta, edocui. Quum haesitaret, quum teneretur, quaesivi quid dubitaret proficisci eo quo jampridem pararet, quum arma, quum secures, quum fasces, quum tubas, quum signa militaria, quum aquilam illam argenteam, cui ille etiam sacrarium [scelerum] domi suae fecerat, scirem esse praemissam. In exsilium ejiciebam quem jam ingressum esse in bellum videbam? Etenim, credo, Manlius iste centurio, qui in agro Faesulano castra posuit, bellum populo Romano suo nomine indixit, et illa castra nunc non Catilinam ducem expectant, et ille ejectus in exsilium, se Massiliam, ut aiunt, non in haec castra conferet.

VII. O conditionem miseram non modo administrandae, verum etiam conservandae rei publicae. Nunc, si L. Catilina, consiliis, laboribus, periculis meis circumclusus ac debilitatus, subito pertimuerit, sententiam mutaverit, deseruerit suos, consilium belli faciendi abjecerit, ex hoc cursu sceleris et belli iter ad fugam atque in exsilium converterit, non ille a me spoliatus armis audaciae, non obstupefactus ac perterritus mea diligentia, non de spe conatuque depulsus, sed indemnatus, innocens in exsilium ejectus a consule vi et minis esse dicetur; et erunt qui illum, si hoc fecerit, non improbum, sed miserum, me non diligentissimum consulem, sed crudelissimum tyrannum existimari velint. Est mihi tanti, Quirites, hujus invidiae falsae atque iniquae tempestatem subire, dummodo a vobis hujus horribilis belli ac nefarii periculum depellatur. Dicatur sane ejectus esse a me, dummodo eat in exsilium. Sed, mihi credite, non est iturus. Numquam ego a diis immortalibus optabo, Quirites, invidiae meae levandae caussa, ut L. Catilinam ducere exercitum hostium atque in armis volitare audiatis: sed triduo tamen audietis, multoque magis illud timeo, ne mihi sit invidiosum aliquando, quod illum emiserim potius quam quod ejecerim.

—'pararet:' there is a reading 'parasset,' which may be right. And there is a reading 'pararat,' which is wrong. — 'secures—fasces:' "Cum fascibus atque aliis imperii insignibus in castra ad Manlium contendit" (Sallust, Cat. c. 36). The word [scelerum] after 'sacrarium' is omitted in four MSS. (Halm.) He says that Cicero could not have said, "he had erected in his house a sanctuary of crimes for the eagle." But suppose that Cicero did say so. We must be content. The direct evidence is stronger for his having said it than for not having said it.

ejiciebam] Halm asks, 'Why not ejeci?' The answer may be, Why the question? One MS. has 'viderem' for videbam;' but the indicative is wanted here to express the fact simply.

Faesulano] See Cat. i. c. 2.—'Massiliam:' see Vol. II. Pro M. Fonteio, c. 5. This Greek city was beyond the limits of Italy, and one of the nearest large cities where a Roman might find a convenient residence when he was obliged to quit Italy. L. Scipio Asiaticus retired there, and T. Annius Milo.

7. *Est mihi tanti,—subire,*] "It is worth my while to sustain the storm of this groundless and unjust popularity, if the danger of this horrible and wicked war can be averted from you."

Sed quum sint homines qui illum, quum profectus sit, ejectum esse dicant, iidem, si interfectus esset, quid dicerent? Quamquam isti, qui Catilinam Massiliam ire dictitant, non tam hoc queruntur quam verentur. Nemo est istorum tam misericors qui illum non ad Manlium quam ad Massilienses ire malit: ille autem, si mehercule hoc quod agit numquam antea cogitasset, tamen latrocinantem se interfici mallet quam exsulem vivere. Nunc vero, quum ei nihil adhuc praeter ipsius voluntatem cogitationemque acciderit, nisi quod vivis nobis Roma profectus est, optemus potius ut eat in exsilium quam queramur.

VIII. Sed cur tamdiu de uno hoste loquimur, et de eo hoste qui jam fatetur se esse hostem, et quem, quia quod semper volui murus interest, non timeo; de iis qui dissimulant, qui Romae remanent, qui nobiscum sunt, nihil dicimus? Quos quidem ego, si ullo modo fieri possit, non tam ulcisci studeo quam sanare sibi ipsos, [et] placare rei publicae; neque id quare fieri non possit, si me audire volent, intelligo. Exponam enim vobis, Quirites, ex quibus generibus hominum istae copiae comparentur; deinde singulis medicinam consilii atque orationis meae si quam potero afferam. Unum genus est eorum, qui magno in aere alieno majores etiam possessiones habent, quarum amore adducti dissolvi nullo modo possunt. Horum hominum species est honestissima—sunt enim locupletes—voluntas vero et caussa impudentissima. Tu agris, tu aedificiis, tu

Nemo est] 'Qui illum—malit' depends on 'nemo:' "There is not one of them, so compassionate as he is, who would wish Catilina not to go to Manlius, but to go to Massilia instead." If they really pitied him, they would wish him to go where he would be safest, to Massilia, and not to Manlius.

8. *sanare sibi ipsos*, &c.] The reading in the common editions is 'sanare et ipsos.' 'Placare rei publicae' means to reconcile to the state, to make them 'placidi' to the state. Halm supposes that the dative 'rei publicae' has led the orator to put a corresponding dative after 'sanare.' This may be so. At least there is no difficulty in the dative 'sibi.' Halm compares the passage in Tacitus (Ann. ii. 38), 'sibi ignavi, nobis graves.' Ernesti would like to have 'ipsis,' but that is contrary to the use of the Latin language. 'Ipse' must agree with the subject of the discourse, and not with the reflective pronoun.

dissolvi] The following passage in the oration Pro Sulla (c. 20) is quoted by Manutius: "Illud erat genus hominum horribile et pertimescendum, qui tanto amore suas possessiones amplexi tenebant ut ab iis membra citius divelli ac distrahi posse diceres." It is not clear what word we must supply with 'dissolvi.' Halm says 'ab iis,' by which I suppose he means 'a possessionibus.' But I find no example of this use of 'dissolvi;' and it is certainly not the true explanation. If the word is right, it means 'cannot be set free;' as he says afterwards, "neque—alia ratione ulla salvi esse possunt." 'Aes alienum dissolutum est' means that debts are settled. A man is said to be 'dissolutus' who is free from all restraint; and though the word 'dissolutus' had by usage a bad sense, it might have a general or indifferent sense. So there is no reason why we may not say 'dissolvi non possunt,' 'cannot be set free.'

The 'in aere alieno,' 'to be in another man's Aes,' is to be in debt. 'In suo aere' means to 'be in funds,' as we sometimes say. Vol. I. Ver. ii. 4. c. 6; and Horace (2 Ep. ii. 12), 'meo sum pauper in aere.'

argento, tu familia, tu rebus omnibus ornatus et copiosus sis, et dubites de possessione detrahere, acquirere ad fidem? Quid enim exspectas? Bellum? Quid ergo in vastatione omnium tuas possessiones sacrosanctas futuras putas? An tabulas novas? Errant qui istas a Catilina exspectant. Meo beneficio tabulae novae proferentur, verum auctionariae. Neque enim isti qui possessiones habent alia ratione ulla salvi esse possunt. Quod si maturius facere voluissent, neque, id quod stultissimum est, certare cum usuris fructibus praediorum, et locupletioribus his et melioribus civibus uteremur. Sed hosce homines minime puto pertimescendos, quod aut deduci de sententia possunt, aut, si permanebunt, magis

de possessione detrahere,] Here and in the expression 'possessiones habent' the word means 'property;' as in Horace's 'valeat possessor oportet' (Ep. i. 2. v. 49), and many other instances. See the Index to Vol. II. 'Detrahere' and 'adquirere' are thus used absolutely sometimes. Cicero says (Ad Att. xi. 11): "Ille in Achaia non cessat de nobis detrahere."

tabulae novae] These are 'new books,' new reckonings. Among the inducements to revolution which Catilina (Sallust, Cat. c. 21) offered to his associates was relief from their debts and the possession of other people's property. The Romans occasionally settled the affairs of insolvents by a Lex, of which the Lex Valeria is an example (Vol. II. Pro M. Fonteio, c. 1). They do not appear to have had at this time any general way of settling the affairs of insolvents. If Catilina and his friends had lived in England, they would have passed through the court for insolvent debtors. The relief given to debtors at Rome by 'tabulae novae' was at the expense of their creditors, whose claims were diminished by a third or a fourth, or by some other amount, as the case might be. Cicero promises relief to debtors, but in another way. He will compel them to settle their affairs by a sale of part of their property; and he says that it was done. It is not easy to see why the creditors themselves did not do it; or why the debtors could not make them do it. Cicero speaks of a general compulsory settlement; one that was to be made whether debtor or creditor liked it or not. The passage in the De Officiis (ii. 24), which has often been referred to, explains this: "Tabulae vero novae quid habent argumenti, nisi ut emas mea pecunia fundum, eum tu habeas, ego non habeam pecuniam? Quamobrem ne sit aes alienum quod rei publicae noceat providendum est; quod multis rationibus caveri potest; non, si fuerit, ut locupletes suum perdant, debitores lucrentur alienum. Nec enim ulla res vehementius rem publicam continet quam fides, quae nulla esse potest, nisi erit necessaria solutio rerum creditarum. Numquam vehementius actum est quam me consule ne solveretur: armis et castris tentata res est ab omni genere hominum et ordine, quibus ita restiti ut hoc tantum malum de re publica tolleretur. Numquam nec majus aes alienum fuit nec melius nec facilius dissolutum est, fraudandi enim spe sublata, solvendi necessitas consecuta est."

Cicero speaks of men's lands being encumbered by debt, by the payment of interest, and of the produce of the lands (fructus) being insufficient to pay the interest of the money (usurae). This might arise either from land having been bought with borrowed money, which generally ends in the ruin of the borrower, or money having been borrowed on the hypothecation of land. Cicero has expressed in a few words a condition which is attached to the ownership of land, when the owner has mortgaged it; a struggle between the interest and the proceeds of the land. The best way of ending it is to sell the land, or enough of it to clear off the debt, and rest in peace from the urgent demands of the money-lender. He who holds the precious metal, or who has the right to demand it, is the greedy man, the avaricious man. He who holds the land may be profuse and generous. But whatever he may be, the owner of the land wages an unequal contest with the man to whom it has been mortgaged. The produce of the land and the value of it are uncertain. The interest on the borrowed money is fixed and must be paid at fixed times.

mihi videntur vota facturi contra rem publicam quam arma laturi. IX. Alterum genus est eorum, qui, quamquam premuntur aere alieno, dominationem tamen exspectant, rerum potiri volunt, honores quos quieta re publica desperant, perturbata se consequi posse arbitrantur. Quibus hoc praecipiendum videtur, unum scilicet et idem quod ceteris omnibus, ut desperent id quod conantur se consequi posse: primum omnium me ipsum vigilare, adesse, providere rei publicae; deinde magnos animos esse in bonis viris, magnam concordiam, maximam multitudinem, magnas praeterea copias militum; deos denique immortales huic invicto populo, clarissimo imperio, pulcherrimae urbi contra tantam vim sceleris praesentes auxilium esse laturos. Quod si jam sint id quod cum summo furore cupiunt adepti, num illi in cinere urbis et sanguine civium, quae mente conscelerata ac nefaria concupiverunt, consules se aut dictatores aut etiam reges sperant

9. *quamquam premuntur*] It is a useful exercise to attempt to seize the idea which is not expressed in direct terms. Cicero says that there are men oppressed with debt who wish to get political power, and the high offices of the state, which they despair of getting while things are tranquil. But besides mentioning these two facts, he attaches to them severally a 'quamquam' and a 'tamen;' and both of these words express some relation between the facts. It is this, says Halm: "The thought expressed in concessive form (it is his word) depends on the political principle, that a power which is not founded on property, does not allow us to expect that it will have strength to last." This is certainly not Cicero's meaning. It is the contrast between the condition of a man loaded with debt, and his extravagant expectations which Cicero places in opposition; with the additional remark that these expectations can only be realized by a revolution.

ut desperent] Halm says that this does not depend on 'praecipiendum,' but on 'unum scilicet,' &c., with which words it forms an intermediate clause that we may omit if we choose. This is so far true, that 'hoc praecipiendum' is explained by 'primum omnium,' 'deinde,' and 'denique;' but how can Halm suppose that 'ut desperent' does not depend on 'praecipiendum?' There is nothing else for it to depend on. The advice given, or to be given, was 'to despair.' Cicero says (Laelius, c. 16), "Illud potius praecipiendum fuit ut eam diligentiam adhiberemus," &c. The 'praeceptum' is further expounded by the forms in the infinitive, 'primum omnium—vigilare,' &c. But this may scarcely seem to explain why we have 'praecipiendum ut,' and then the following verbs in the infinitive. The verbs 'vigilare,' 'adesse,' and the rest could not be in the subjunctive, for they denote a fact that the revolutionists ought to know. 'Praecipiendum' does not seem to mean in this passage to 'advise,' but it means to 'learn first,' 'to know before every thing else.' It may then be translated: "I think these men should learn one thing, which indeed every body knows, to despair of accomplishing their object while I am consul; first of all, because I myself am vigilant." The first thing of which he says 'praecipiendum' is a conclusion, and this must be expressed by 'ut' and the subjunctive. The second thing of which he says 'praecipiendum' is a fact, and this must be expressed as a fact, and either in the indicative or the infinitive mood, according to the structure of the sentence.

maximam multitudinem] Halm writes 'in maxima multitudine.' Two MSS. have 'maxima in multitudine.' I think the common reading is quite as good as his; and I do not see the difficulty in "the defective *Anaphora*" (whatever that may mean), which consists in 'maximus' standing in the middle of the three repeated 'magnus,' as he says. But this is easily answered. It is not in the middle: it comes after a twice repeated 'magnus;' and the third 'magnus' is a different 'magnus,' introduced and protected by 'praeterea.'

futuros? Non vident id se cupere, quod si adepti sint, fugitivo alicui aut gladiatori concedi sit necesse? Tertium genus est aetate jam affectum, sed tamen exercitatione robustum, quo ex genere est ipse Manlius cui nunc Catilina succedit. Sunt homines ex iis coloniis quas Sulla constituit, quas ego universas civium esse optimorum et fortissimorum virorum sentio; sed tamen ii sunt coloni, qui se in insperatis repentinisque pecuniis sumptuosius insolentiusque jactarunt. Hi dum aedificant tamquam beati, dum praediis, lecticis, familiis magnis, conviviis apparatis delectantur, in tantum aes alienum inciderunt, ut, si salvi esse velint, Sulla sit his ab inferis excitandus; qui etiam nonnullos agrestes homines tenues atque egentes in eandem illam spem rapinarum veterum impulerunt. Quos ego utrosque, Quirites, in eodem genere praedatorum direptorumque pono; sed eos hoc moneo: desinant furere ac proscriptiones et dictaturas cogitare. Tantus enim illorum temporum dolor inustus est civitati, ut jam ista non modo homines sed ne pecudes quidem mihi passurae esse videantur. X. Quartum genus est sane varium et mixtum et turbulentum; qui jam pridem

sit necesse?] Halm has a good note on this remark of Cicero, which he paraphrases thus: "It is inevitable according to the principle established by experience, that the revolution devours its own children, and the first leaders of a revolutionary movement never maintain themselves in possession of the power which they expected."

Tertium genus] This passage gives us some insight into the state of Italy at this time. Sulla planted his soldiers in various parts of Italy to the number of one hundred and twenty thousand, as Appian says (B. C. i. 104), and chiefly in Etruria; for the Etrurians and the Samnites made the longest resistance of all those who supported Marius' party. Manlius (Dion Cass. 37. c. 30) had served as a centurion in Sulla's army, and had the reputation of being a good soldier. But he was a man of great expense. He wasted all that he had, and then wished for more. A revolution was the only hope for such a man. These colonists of Sulla, these old soldiers, who had all at once become rich, and had wasted in rioting all that they had gotten, were one of the chief elements of Catiline's conspiracy. "Having wasted their own," says Sallust, "they remembered their former plunder and victory, and they longed for civil war."

aedificant] They built houses, like rich men, one of the surest roads to ruin (Horace, Serm. ii. 3. v. 308). They had their farms, their luxurious litters, many slaves (familiae magnae), and splendid feasting. Halm, following some MSS., reads 'praediis lectis' instead of 'praediis, lecticis,' which reading, he says, offends for several reasons; but he does not say what the reasons are. There is a note on 'lecticae' (Vol. I. Verr. ii. 5. c. 11). Muretus made the alteration into 'praediis lectis,' and his authority is 'liber vetus.'

'Apparare' is a word that is used in speaking of feasts. Horace (Carm. i. 38) has 'Persicos odi puer apparatus.' Cicero says also in the Verrines (Vol. I. Verr. ii. 4. c. 20), 'ornare et apparare convivium.'

ne pecudes quidem] This is an absurd way of talking that Cicero sometimes falls into. See Vol. II. In Rullum, ii. c. 4. Halm, who also finds fault with it, supposes it to be a proverbial kind of expression. He compares Cicero (Ad Attic i. 16): "Quod omnes non modo homines verum etiam pecudes factum esse sciant, id Thalnam et Plautum et ceteras hujusmodi quisquilias statuere nunquam esse factum."

10. *turbulentum;*] Halm thinks that this word does not mean 'unquiet' in this passage; but 'checqued,' 'piebald,' or whatever he means by 'buntscheckig."—'gerendo negotio:' we say generally 'negotium gerere' (which is to be explained by the composition with 'otium'), instead of 'negotia gerere' (Halm). He

premuntur, qui numquam emergunt; qui partim inertia, partim male gerendo negotio, partim etiam sumptibus in vetere aere alieno vacillant; qui vadimoniis, judiciis, proscriptione bonorum defatigati, permulti et ex urbe et ex agris se in illa castra conferre dicuntur. Hosce ego non tam milites acres quam infitiatores lentos esse arbitror. Qui homines primum, si stare non possunt, corruant; sed ita ut non modo civitas sed ne vicini quidem proximi sentiant. Nam illud non intelligo quamobrem, si vivere honeste non possunt, perire turpiter velint; aut cur minore dolore perituros se cum multis quam si soli pereant arbitrentur. Quintum genus est parricidarum, sicariorum, denique omnium facinorosorum, quos ego a Catilina non revoco; nam neque divelli ab eo possunt, et pereant sane in latrocinio, quoniam sunt ita multi ut eos carcer capere non possit. Postremum autem genus est, non solum numero, verum etiam genere ipso atque vita, quod proprium est Catilinae, de ejus delectu, immo vero de complexu ejus ac sinu, quos pexo capillo,

compares 'negotii gerendi studio' (Pro Sulla, c. 20). Yet they said 'negotia habere' (Pro Cluentio, c. 69), which Forcellini explains to mean 'merchandize;' but incorrectly I think. 'Negotia' may have the meaning of 'merchandize' in the passage in Horace (Ep. i. 6. v. 33):—

> "Ne Cibyratica, ne Bithyna negotia perdas."

But it may also be explained as having the ordinary meaning. Cicero (Ad Div. xii. 21) has 'ut—sua negotia conficiat,' which means 'settle his money affairs.' 'Habet negotia vetera in Sicilia' (Ad Div. xiii. 30). But 'negotium gerere,' as Halm says, seems to be the same as 'negotiari,' to be a 'negotiator.'

vadimoniis—proscriptionibus] See the oration Pro P. Quintio, and the Index to Vol. II., 'Vadimonium, Judicium, Proscriptio bonorum.'—'infitiatores lentos:' he says 'slow deniers,' or rather, as 'infitiatores' comes first, he means men who refuse payment of their debts by excuses, by inventing reasons for delay (lentos). 'Infitiator' is a common term to express a man who denies a debt, as in De Or. i. 37; and in Juvenal, v. 60:—

> "Nunc si depositum non infitietur amicus."

ne vicini quidem] Halm observes that this is a proverbial kind of speech, as in Lucian, Charon, c. 16: οὗτος—ἢν καὶ πέσῃ, ἀψοφητὶ κείσεται, μόλις καὶ τοῖς γείτοσιν ἐξακουσθέντος τοῦ πτώματος.

carcer] It is said there was only one prison in Rome, a part of which, called Tullianum, was used for executions. Lentulus and some of the other prisoners were strangled in the Tullianum (Sallust, Cat. c. 55).

de complexu] This is an expression used to signify an intimate friend, a bosom friend, as we say, probably following the Roman turn (Cic. Ad Fam. xiv. 4: 'in sinu semper et complexu meo'); but it is easy to see, as Muretus observes, that Cicero has a foul allusion, after his fashion.—'imberbes:' these were youths who had no beards, either because they were too young or too effeminate. Manutius would read 'paene barbatos,' because Cicero says afterwards, "Hi pueri tam lepidi ac delicati." The beard was worn to the age of manhood, and then cut. Though it was not the fashion in Cicero's time for older men at Rome to wear beards, it seems that some of the young dandies wore them. The old Romans were beard-men. The story is that barbers first came from Sicily, A.U.C. 454. P. Scipio Africanus P. F. when he was under forty years of age used to shave himself: "Comperimus autem ceteros quoque in iisdem temporibus nobiles viros barbam in ejusmodi aetate rasitavisse: ieircoque plerasque imagines veterum non admodum senum, sed in medio aetatis ita factas videmus" (Gellius, iii. 4).

nitidos, aut imberbes aut bene barbatos videtis, manicatis ac talaribus tunicis, velis amictos, non togis; quorum omnis industria vitae et vigilandi labor in antelucanis coenis expromitur. In his gregibus omnes aleatores, omnes adulteri, omnes impuri impudicique versantur. Hi pueri tam lepidi ac delicati non solum amare et amari, neque saltare et cantare, sed etiam sicas vibrare et spargere venena didicerunt; qui nisi exeunt, nisi pereunt, etiamsi Catilina perierit, scitote hoc in re publica seminarium Catilinarum futurum. Verumtamen quid sibi isti miseri volunt? Num suas secum mulierculas sunt in castra ducturi? Quemadmodum autem illis carere poterunt his praesertim jam noctibus? Quo autem pacto illi Apenninum atque illas pruinas ac nives perferent? Nisi idcirco se facilius hiemem toleraturos putant, quod nudi in conviviis saltare didicerunt.

XI. O bellum magno opere pertimescendum, quum hanc sit habiturus Catilina scortorum cohortem praetoriam. Instruite nunc, Quirites, contra has tam praeclaras Catilinae copias vestra praesidia vestrosque exercitus; et primum gladiatori illi confecto et saucio consules imperatoresque vestros opponite; deinde contra

manicatis—tunicis,] See Vol. I. Verr. ii. 5. c. 12, note on 'talarique;' and Horace, Sat. i. 2. v. 25. Halm refers to Gellius (vii. 12): "Tunicis uti virum prolixis ultra brachia et usque in primores manus ac prope digitos Romae atque omni in Latio indecorum fuit. Eas tunicas Graeco vocabulo nostri χειριδωτοὺς appellaverunt, feminisque solis vestem longe lateque diffusam decoram existimaverunt."—'velis amictos, non togis:' he means 'togae' which were too loose and wide. The austere men wore a 'toga' of smaller dimensions.

> "Quid, si quis vultu torvo ferus et pede nudo,
> Exiguaeque togae simulet textore Catonem."

Horace, Ep. i. 19. v. 13; and Ep. i. 18. v. 30, "arcta decet sanum comitem toga;" and Epod. 4. 7:

> "Videsne, sacram metiente te viam
> Cum bis ter ulnarum toga,
> Ut ora vertat huc et huc euntium
> Liberrima indignatio?"

Manutius explains 'velis' to mean 'tenuissimis togis.' These young fellows, whose dress showed their tastes and habits, displayed their activity only in prolonging their revelries to the morning (in antelucanis caenis).

seminarium] A 'seminarium' is a place for planting cuttings in, or sowing seeds, till the plants are large enough to be transplanted (Forcellini). The reading 'seminarium Catilinarum' has MSS. authority as well as 'seminarium Catilinarium,' which is printed in some editions. Klotz prefers the adjective, and this would be the usual construction.

his—noctibus?] This was said on the ninth of November. But the Roman Calendar was at that time in confusion; and the ninth of November was not the true time. Still it was the cold season, as Cicero says; the nights were cold, and the snows had fallen on the mountains of Italy.

nudi in conviviis] He means literally 'naked,' as the context shows; not 'nudus' in the sense in which Virgil tells his ploughman to work. There is a passage in the oration Pro Rege Deiotaro, c. 9, about dancing naked, but not literally naked. Muretus supposes that Cicero has here imitated the passage of Demosthenes about King Philip and his dancing (Ol. ii. § 18). Cicero doubtless knew the passage in Demosthenes as well as Muretus; but if he said this when there was no truth in the matter, it is merely a piece of frigid rhetoric.

illam naufragorum ejectam ac debilitatam manum florem totius Italiae ac robur educite. Jam vero urbes coloniarum ac municipiorum respondebunt Catilinae tumulis silvestribus. Neque ego ceteras copias, ornamenta, praesidia vestra cum illius latronis inopia atque egestate conferre debeo. Sed, si, omissis his rebus omnibus quibus nos suppeditamus, eget ille, senatu, equitibus Romanis, [populo,] urbe, aerario, vectigalibus, cuncta Italia, provinciis omnibus, exteris nationibus; si, his rebus omissis, caussas ipsas quae inter se confligunt contendere velimus, ex eo ipso quam valde illi jaceant intelligere possumus. Ex hac enim parte pudor pugnat, illinc petulantia: hinc pudicitia, illinc stuprum: hinc fides, illinc fraudatio: hinc pietas, illinc scelus: hinc constantia, illinc furor: hinc honestas, illinc turpitudo: hinc continentia, illinc libido: denique aequitas, temperantia, fortitudo, prudentia, virtutes omnes certant cum iniquitate, luxuria, ignavia, temeritate, cum vitiis omnibus: postremo copia cum egestate, bona ratio cum perdita, mens sana cum amentia, bona denique spes cum omnium rerum

11. *naufragorum*] This is a favourite metaphor with Cicero (In Cat. i. c. 12). A shipwrecked man is the emblem of complete destitution. Against these miserable wretches the flower of all Italy and the strength would be opposed. Horace (Carm. ii. 13) has the expression 'et Italum robur,' in a different sense as some commentators suppose, but not all.

urbes coloniarum] Muretus thinks that this is not Latin, and he would read 'vires.' Garatoni would read 'arces.' But if we translate it the 'cities of the coloniae and the municipia,' there is no more difficulty in the expression than in 'urbes Italiae,' for a 'colonia' was a territory and a 'municipium' was a territory; and each territory had its chief city, and small dependent places. The 'tumuli silvestres' are the hills on which he represents the bands of Catilina as collected. The 'cities,' the walled towns, will be a match (respondebunt) for such places. In c. 12 he says "coloni omnes—urbes suas finesque defendent."

suppeditamus] Halm has 'suppeditamur,' and says "this is the only passage in which the word occurs in this signification and construction. Some MSS. have 'suppeditamus;' but the reading is made certain by the testimony of the grammarian Arusianus Messius, who quotes the passage as an example of the expression 'suppeditor hac re.'" Some of Halm's MSS. have 'suppeditamus,' one has 'suppeditemus,' and two have 'suppeditabimus.' He does not say what the others have.

populo,] This word is wanting in the best MSS.; but I do not see any difficulty in it, for Catilina could be said to be without Senate, Equites, and Populus; and as this oration is addressed to the Populus, there is propriety in mentioning the Populus. There is much more difficulty in the word 'Romanis,' for why should he say 'equitibus Romanis?' I think that Halm's conjecture is very probable. One of the MSS. has 'equite R. P.,' and he supposes that the true reading may be 'equite, re publica.'

Ex hac enim parte] Halm observes that the simpler rhetoric of the Greeks, or he might have said of Demosthenes, would not have allowed this long-spun antithesis. He compares the passage in the oration against Leptines, c. 37: *ἐν τῇ τῶν καθημένων ὑμῶν ἑνὸς ἑκάστου γνώμῃ φιλανθρωπία πρὸς φθόνον καὶ δικαιοσύνη πρὸς κακίαν καὶ πάντα τὰ χρηστὰ πρὸς τὰ πονηρότατα ἀντιτάττεται.* Demosthenes is always more severe and simple than Cicero, and in this lies his force. If we had the speeches of C. Gracchus, we might perhaps have found in the Roman a real rival to the Athenian orator. The fragments of C. Gracchus justify such a supposition.

bona ratio] The good principle fights against the bad; the principle of conservation against the principle of confusion.

desperatione confligit. In ejusmodi certamine ac praelio nonne, etiamsi hominum studia deficiant, dii ipsi immortales cogant ab his praeclarissimis virtutibus tot et tanta vitia superari? XII. Quae quum ita sint, Quirites, vos, quemadmodum jam antea [dixi], vestra tecta custodiis vigiliisque defendite: mihi, ut urbi sine vestro motu ac sine ullo tumultu satis esset praesidii, consultum atque provisum est. Coloni omnes municipesque vestri, certiores a me facti de hac nocturna excursione Catilinae facile urbes suas finesque defendent: gladiatores, quam sibi ille manum certissimam fore putavit, quamquam animo meliore sunt quam pars patriciorum, potestate tamen nostra continebuntur. Q. Metellus, quem ego hoc prospiciens in agrum Gallicum Picenumque praemisi, aut opprimet hominem aut omnes ejus motus conatusque prohibebit. Reliquis autem de rebus constituendis, maturandis, agendis jam ad senatum referemus, quem vocari videtis.

Nunc illos qui in urbe remanserunt, atque adeo [qui] contra urbis salutem omniumque vestrum in urbe a Catilina relicti sunt, quamquam sunt hostes, tamen, quia [nati] sunt cives, monitos [eos]

cogant] Only one MS., it seems, has 'cogent,' and yet this false reading has been generally printed. 'Deficiant' requires 'cogant.'

12. *jam antea*] 'Fecistis' must be supplied, says Halm. The MSS. reading is 'jam antea dixi,' except one MS. which omits 'dixi,' as Muretus says. Klotz retains 'dixi,' and he supposes, as some other critics do, that Cicero refers to the words 'Instruite nunc, Quirites,' &c. (c. 11). But still he thinks that there is a good deal that is pleasing in the omission of 'dixi,' and we must then refer 'antea,' to all the past time during which Catilina had caused alarm; and so the expression would resemble that in the twelfth chapter of the third oration against Catilina: "in vestra tecta discedite, et ea, quamquam jam periculum est depulsum, tamen aeque ac priori nocte custodiis vigiliisque defendite."

gladiatores,] Ernesti thought that 'tamen' in this sentence required 'non meliore' to precede it. He thought that 'tamen' was opposed to 'quamquam.' But 'potestate tamen' corresponds to 'gladiatores—putavit;' and 'quamquam—patriciorum,' is a parenthetical remark; "though they are better than some of the Patricii." Halm in his note says that Ernesti's remark is not without a reason; but at the end of his note he gives the true explanation of the passage. 'Quamquam' often stands alone in a clause. 'Tamen' may correspond to or be opposed to any thing. There is no particular adverb to which it is usually opposed. It is opposed to a whole phrase. It often has 'etsi' for its corresponding antecedent, as well as 'quamquam.' 'Quamquam' is generally mistranslated. Cicero says Ad Q. Fratrem (i. 1. c. 15): "Non est tibi his solis utendum existimationibus ac judiciis qui nunc sunt hominum, sed iis etiam qui futuri sunt: quamquam illorum erit verius judicium obtrectatione et malevolentia liberatum." Here 'quamquam' means 'however it may be,' 'take it as you please, so much as this is certain.'

adeo qui] This 'qui' is wanting in two sets of MSS. If it is omitted, we must consider 'adeo—relicti sunt' as replacing or correcting 'remanserunt:' "Now those who have stayed behind in the city, or rather who have been left." If 'qui' is printed after 'adeo,' we may, as Halm says, consider the whole clause 'qui in urbe remanserunt' as replaced by 'qui—relicti sunt,' subject and predicate, both replaced. But after all it makes little difference for the sense. As to 'adeo,' see Vol. I. II. Index.

nati sunt] 'Nati' is doubtful. It seems enough to say 'cives' without 'nati.' Halm observes that nine MSS. of the best character omit 'nati.'—'Mea lenitas adhuc' means 'my lenity so far.' One set of MSS.

etiam atque etiam volo. Mea lenitas adhuc si cui solutior visa est, hoc exspectavit, ut id quod latebat erumperet. Quod reliquum est, jam non possum oblivisci meam hanc esse patriam, me horum esse consulem, mihi aut cum his vivendum aut pro his esse moriendum. Nullus est portis custos, nullus insidiator viae; si qui exire volunt, consulere sibi possunt: qui vero se in urbe commoverit, cujus ego non modo factum sed inceptum ullum conatumve contra patriam deprehendero, sentiet in hac urbe esse consules vigilantes, esse egregios magistratus, esse fortem senatum, esse arma, esse carcerem, quem vindicem nefariorum ac manifestorum scelerum majores nostri esse voluerunt.

XIII. Atque haec omnia sic agentur, Quirites, ut maximae res minimo motu, pericula summa nullo tumultu, bellum intestinum ac domesticum post hominum memoriam crudelissimum ac maximum, me uno togato duce et imperatore sedetur. Quod ego sic administrabo, Quirites, ut, si ullo modo fieri poterit, ne improbus quidem quisquam in hac urbe poenam sui sceleris sufferat. Sed si vis manifestae audaciae, si impendens patriae periculum me necessario de hac animi lenitate deduxerit, illud profecto perficiam, quod in tanto et tam insidioso bello vix optandum videtur, ut neque bonus quisquam intereat, paucorumque poena vos omnes salvi esse possitis. Quae quidem ego neque mea prudentia, neque humanis consiliis fretus polliceor vobis, Quirites, sed multis et non dubiis deorum immortalium significationibus, quibus ego ducibus in hanc

have 'si cui adhuc solutior.' Perhaps the less usual order, the order in the text, may be the genuine words of Cicero.

consulere sibi possunt:] Halm has taken the reading of a few MSS. 'conivere possum.' 'Conivere' is 'connivere:' 'I can shut my eyes.' Besides two MSS. quoted by Halm, he adds as authority for 'conivere' the following: "Schol., Probus, p. 1482, P., Claudius Sacerdos p. 64 (Schol. et Sacerd. *conibere*)." There are other variations, such as 'cohibere,' 'commovere.'

non modo factum sed inceptum] One MS. has 'sed ne inceptum quidem;' and some have 'sed vel inceptum.' It is not usual to have this form of expression without the emphatic 'etiam' after 'sed.' See Vol. I. Appendix on Non modo.

13. *uno togato*] In the civil dress, the dress of peace, not the 'paludamentum.' Cato says in a letter to Cicero (Ad Div. xv. 5): "Quod et res publica me et nostra amicitia hortatur, libenter facio, ut tuam virtutem, innocentiam, diligentiam, cognitam in maximis rebus, domi togati, armati foris, pari industria administrari gaudeam." Compare In Cat. iii. 6.

vix optandum] He means that so much could hardly be expected; but he expresses it in this form: 'we could hardly wish for so much;' for our wishes are generally bounded within the limits of what is possible.

neque—paucorumque] 'Neque—et,' and 'nec—et' occur frequently in Cicero. 'Neque—que' is not so common.—'vos omnes:' there is a reading 'vos jam omnes;' and another 'vos omnes jam,' which is not so good.

significationibus,] Halm observes that we know nothing more about these signs. There were always signs at Rome, when any thing unusual was going to happen. Muretus supposes that these may be the signs mentioned by Dion (37. c. 5), and by Plutarch (Cicero, c. 20); but these signs happened after Lentulus was compelled to abdicate the praetorship, and later than the time when this oration was delivered.

spem sententiamque sum ingressus ; qui jam non procul, ut quondam solebant, ab externo hoste atque longinquo, sed hic praesentes suo numine atque auxilio sua templa atque urbis tecta defendunt: quos vos, Quirites, precari, venerari, implorare debetis, ut quam urbem pulcherrimam, florentissimamque esse voluerunt, hanc omnibus hostium copiis terra marique superatis a perditissimorum civium nefario scelere defendant.

florentissimam] Some MSS. have 'pulcherrimam, florentissimam potentissimamque,' the bombast and heaviness of which, says Halm, is manifest. But it may still be genuine. Perhaps Cicero did not think about it as Halm does.

M. TULLII CICERONIS

IN

L. CATILINAM

ORATIO TERTIA,

AD QUIRITES.

I. Rem publicam, Quirites, vitamque omnium vestrum, bona, fortunas, conjuges liberosque vestros, atque hoc domicilium clarissimi imperii, fortunatissimam pulcherrimamque urbem hodierno die deorum immortalium summo erga vos amore, laboribus, consiliis, periculis meis e flamma atque ferro ac paene ex faucibus fati ereptam et vobis conservatam ac restitutam videtis. Et, si non minus nobis jucundi atque illustres sunt ii dies quibus conservamur quam illi quibus nascimur, quod salutis certa laetitia est, nascendi incerta conditio, et quod sine sensu nascimur, cum voluptate servamur, profecto, quoniam illum, qui hanc urbem condidit, ad deos

1. *nascendi incerta conditio,*] "Uncertain is the condition which our birth determines." We are born, but we know not what we are born to. The Trausi (Herod. v. 4), a Thracian nation, do this when a child is born or a person dies. "When a child is born, the relations sit round it and lament for the evils that the child must endure now that he is born, enumerating all the pains that man is subject to. But when a person dies, they make merry, and with joy put him in the earth, telling the sorrows from which he is released and how he is now in the enjoyment of all happiness." The Moravians wear no mourning for the dead, for they look on death as a release from earthly bonds: they say that the dead is gone home to the Lord. The usage of modern nations called civilized differs from the Thracian usage. Which is right, the civilized man, as he is called, or the barbarian, as we call him?

qui hanc urbem] The founder of Rome, Romulus, was honoured as a god, and he had a festival, the Quirinalia, on the seventeenth of February.

"Proxima lux vacua est: at tertia dicta Quirino.
Qui tenet hoc nomen Romulus ante fuit." (Ovid, Fasti ii. 475.)

About seven centuries had passed from the supposed age of Romulus to that of Cicero; and the name of Rome's founder had never been forgotten. His birth was supernatural; but he lived on earth like other warlike kings, and founders of dynasties. His end was supernatural too, for he was taken up to heaven.

"—— hac Quirinus
Martis equis Acheronta fugit."
(Hor. Carm. iii. 3.)

Or as Ovid (Fasti ii. 496) tells it:

"Rex patriis astra petebat equis."

The great benefactors of mankind were

immortales benevolentia famaque sustulimus, esse apud vos posterosque vestros in honore debebit is qui eandem hanc urbem conditam amplificatamque servavit. Nam toti urbi, templis, delubris, tectis ac moenibus subjectos prope jam ignes circumdatosque restinximus, iidemque gladios in rem publicam destrictos rettudimus mucronesque eorum a jugulis vestris dejecimus. Quae quoniam in senatu illustrata, patefacta, comperta sunt per me, vobis jam exponam breviter, Quirites, ut et quanta et qua ratione investigata et comprehensa sint vos qui ignoratis ex actis scire possitis.

Principio, ut Catilina paucis ante diebus erupit ex urbe, quum sceleris sui socios, hujusce nefarii belli acerrimos duces, Romae reliquisset, semper vigilavi et providi, Quirites, quemadmodum in tantis et tam absconditis insidiis salvi esse possemus. II. Nam tum quum ex urbe Catilinam ejiciebam, non enim jam vereor hujus verbi invidiam, quum illa magis sit timenda quod vivus exierit, sed tum quum illum exterminari volebam, aut reliquam conjuratorum manum simul exituram, aut eos qui restitissent infirmos sine illo ac debiles fore putabam. Atque ego ut vidi quos maximo furore et scelere esse inflammatos sciebam, eos nobiscum esse et Romae remansisse, in eo omnes dies noctesque consumpsi, ut quid agerent, quid molirentur, sentirem ac viderem, ut, quoniam auribus vestris propter incredibilem magnitudinem sceleris minorem fidem faceret

deified by the simplicity of antiquity, as Cicero says (De Nat. Deorum ii. c. 24): "suscepit autem vita hominum consuetudoque communis ut beneficiis excellentes viros in caelum fama ac voluntate tollerent." This feeling is not peculiar to antiquity. It exists now; but the form is changed in which the feeling is expressed. I conclude that neither the miraculous birth nor the supernatural translation to the skies of the Roman king are any ground of presumption against his historical existence.

rettudimus] Halm cites only one MS. which preserves this way of writing the word; but it is the genuine form.

illustrata, &c.] This rhetorical fulness does not appear in the Attic orators. It is perhaps nearer to one of the two Asiatic styles which Cicero describes (Brutus, c. 95). Halm quotes from Quintilian (Inst. ix. 3, 49) a still stronger instance of this superfluity of words from a speech of Cicero in reply to a Contio of Q. Metellus: "quaero ab inimicis, sintne haec investigata, comperta, patefacta, sublata, deleta, extincta per me?"

ex actis] 'From the official acts,' says Halm; the Acta Publica, a kind of gazette. There is another reading 'et expectatis,' which Halm has adopted in his edition of Orelli, and perhaps it is better.

paucis ante diebus] It was more than a few days. Catilina left Rome on the night of the eighth of November; and this speech was delivered in the beginning of December. (Introduction.)

2. *exterminari*] 'To be driven out of the limits of the city;' for 'urbe' must be supplied either without a preposition or with 'ex,' or 'de,' or 'ab.'

minorem fidem faceret] "That since my words found little credit in your ears." 'Auribus vestris' is the dative depending on 'fidem facere.' 'Fidem facere' is one of the many Latin expressions which have passed from the Latin into the French owing to the circumstance that the French language has been chiefly formed and improved by translation from the Latin, and by the writings of men who had studied the Latin language. Thus the French say 'faire foi:'

"De cette vérité deux fables feront foi."
(La Fontaine, ii. 11)

oratio mea, rem ita comprehenderem, ut tum demum animis saluti vestrae provideretis, quum oculis maleficium ipsum videretis. Itaque ut comperi legatos Allobrogum belli Transalpini et tumultus Gallici excitandi caussa a P. Lentulo esse sollicitatos, eosque in Galliam ad suos cives eodemque itinere cum litteris mandatisque ad Catilinam esse missos, comitemque iis adjunctum esse T. Vulturcium, atque huic esse ad Catilinam datas litteras, facultatem mihi oblatam putavi, ut, quod erat difficillimum, quodque ego semper optabam ab dis immortalibus, tota res non solum a me sed etiam a senatu et a vobis manifesto deprehenderetur. Itaque hesterno die L. Flaccum et C. Pomptinum, praetores fortissimos atque amantissimos rei publicae viros, ad me vocavi, rem [omnem] exposui, quid fieri placeret ostendi. Illi autem, qui omnia de re publica praeclara atque egregia sentirent, sine recusatione ac sine ulla mora negotium susceperunt, et quum advesperasceret occulte ad pontem Mulvium pervenerunt atque ibi in proximis villis ita bipartito fuerunt ut Tiberis inter eos et pons interesset. Eodem autem et ipsi sine cujusquam suspicione multos fortes viros eduxerunt, et ego ex praefectura Reatina complures delectos adolescentes, quorum

Allobrogum] This story of the Allobroges and of their betrayal of the conspirators is in Sallust (Cat. c. 41). They gave the information to their patronus Q. Fabius Sanga, who carried it to Cicero. (Introduction.)—'tumultus' is a sudden rising, a term peculiarly applied by the Romans to the sudden outbreaks in Gallia Cisalpina before that country was subdued (Cic. Phil. viii. c. 1: "itaque majores nostri tumultum Gallicum, quod erat Italiae finitimus, praeterea nullum nominabant." Vol. I. Verr. ii. 4. c. 23).

P. Lentulo] P. Cornelius Lentulus Sura was praetor in this year, B.C. 63. He was one of the 'quaestores urbani' in B.C. 81 (Vol. I. Verr. ii. 1. c. 14). In B.C. 71 he was consul. He had been ejected from the Senate for his scandalous life, but he got admission again into the body by being elected praetor. (Introduction.)—T. Vulturcium: a native of Croton in Magna Graecia (Sallust, Cat. c. 44).

L. Flaccum] He was propraetor of the province of Asia after his praetorship. He was prosecuted B.C. 59 for Repetundae, and defended by Cicero in an oration which is extant. C. Pomptinus was propraetor of Gallia Narbonensis in B.C. 62. He defeated the Allobroges at Solonium (Livy, Epit. 103; Dion Cassius, 37. c. 47), and had a triumph B.C. 54. He was afterwards (B.C. 51) a legatus of Cicero in Cilicia.

qui—sentirent,] "Being men who had towards the state every noble and honourable feeling." This use of 'qui' and a subjunctive is easily understood by a careful reader of Cicero. It is one of his common forms of expression.

pontem Mulvium] This bridge, now Ponte Molle, was over the Tiber. It is two miles from the Porta Flaminia, now Porta del Popolo, to the Ponte Molle. The old bridge does not exist; and a modern bridge stands in its place. (Westphal, Die Römische Kampagne, p. 133.) The Pons Mulvius was built by the censor M. Aemilius Scaurus, and it has been conjectured that the name Pons Milvius or Mulvius is a popular corruption of Pons Aemilius.

Reatina] Reate (Rieti) was a Sabine town in the valley of the Velinus. It became a Praefectura in the third Samnite war. Reate is mentioned among the Praefecturae in the passage of Festus (p. 233. Müll.). Since the enactment of the Lex Julia (B.C. 90) it had the Roman Civitas; but it was still usual to speak of towns as Praefecturae and Municipia after they had got the Civitas. (Praefectura: see Vol. II. Pro C. Rabirio, c. 8.) Halm observes that Cicero was a Patronus of the Reatini, and could accordingly depend on them. He says (Oratio Pro M. Aemilio Scauro, § 27):

opera utor assidue in re publica, praesidio cum gladiis miseram. Interim tertia fere vigilia exacta, quum jam pontem [Mulvium] magno comitatu legati Allobrogum ingredi inciperent unaque Volturcius, fit in eos impetus; educuntur et ab illis gladii et a nostris. Res erat praetoribus nota solis, ignorabatur a ceteris. III. Tum interventu Pomptini atque Flacci pugna quae erat commissa sedatur. Litterae, quaecumque erant in eo comitatu, integris signis praetoribus traduntur: ipsi comprehensi ad me quum jam dilucesceret deducuntur. Atque horum omnium scelerum improbissimum machinatorem, Cimbrum Gabinium, statim ad me nihildum suspicantem vocavi. Deinde item arcessitus est L. Statilius et post eum C. Cethegus. Tardissime autem Lentulus venit, credo quod in litteris dandis praeter consuetudinem proxima nocte vigilarat. Quum summis ac clarissimis hujus civitatis viris, qui audita re frequentes ad me mane convenerant, litteras a me prius aperiri quam ad senatum deferri placeret, ne, si nihil esset inventum, temere a me tantus tumultus injectus civitati videretur, negavi me

"Ego nuper quum Reatini, qui essent in fide mea, me suam publicam caussam de Velini fluminibus et cuniculis apud hos consules agere voluissent," &c.

fit in eos impetus;] Sallust (Cat. c. 45) says that the Galli, being acquainted with Cicero's design, immediately surrendered. Volturcius made a show of resistance, but soon yielded. Upon the words 'praetoribus nota solis,' Halm observes, "not even to the legati, and accordingly it is said in Sallust: 'Galli cito cognito consilio sine mora se praetoribus tradunt.'" But the word 'cito' is absurd; and it is properly omitted in Sallust's text on the authority of two MSS. cited by Cortius. Allen (Sallust, Cat.) observes that 'cito' is merely an abbreviation of 'cognito.' Sallust's narrative shows that the Allobroges expected to be arrested. 'Cito cognito consilio' is absurd in itself, for how could the Allobroges become acquainted with the 'consilium' under these circumstances 'cito?' Sallust means to say that the Allobroges did know the design. Cicero says that they did not. Drumann remarks (Geschichte Roms, v. p. 490): "Without doubt the Galli were previously informed of the attack, though the place and the particulars were concealed from them; Sallust indeed says that they soon perceived the design, when they were attacked." He has accordingly made his exposition depend partly on the false word 'cito' in Sallust. We may understand why Cicero said that nobody knew what was going to be done except the two praetors. He did not tell the people of his secret communication with the Allobroges. He had done a good deal in detecting the conspiracy that he would not tell the public. He would not tell the people whether he had seen Fulvia, or whether he had given or promised her money. (Introduction.) If he did not choose to say that he had communicated with the Allobroges, he must of course say that they knew nothing of the intended attack.

3. *Cimbrum Gabinium,*] This is P. Gabinius Capito, a man of the Equestrian ordo. Sallust (Cat. c. 17) gives a list of the chief conspirators. He (Cat. 44) says: "Sed Allobroges ex praecepto Ciceronis per Gabinium ceteros conveniunt: ab Lentulo, Cethego, Statilio, item Cassio postulant jus jurandum quod signatum ad cives perferant; aliter haud facile eos ad tantum negotium impelli posse. Ceteri nihil suspicantes dant: Cassius semet eo brevi venturum pollicetur ac paulo ante legatos ex urbe proficiscitur." This passage shows why Cicero sent for these conspirators. Sallust (Cat. c. 46) says that Lentulus, Cethegus, Statilius, and Gabinius were sent for; and one Caeparius, who did not come, for he had just heard that all was discovered. Sallust says that the four men came without delay.

esse facturum ut de periculo publico non ad consilium publicum rem integram deferrem. Etenim, Quirites, si ea quae erant ad me delata reperta non essent, tamen ego non arbitrabar in tantis rei publicae periculis esse mihi nimiam diligentiam pertimescendam. Senatum frequentem celeriter, ut vidistis, coegi. Atque interea statim admonitu Allobrogum C. Sulpicium praetorem fortem virum misi, qui ex aedibus Cethegi si quid telorum esset efferret; ex quibus ille maximum sicarum numerum et gladiorum extulit. IV. Introduxi Vulturcium sine Gallis; fidem publicam jussu senatus dedi; hortatus sum ut ea quae sciret sine timore indicaret. Tum ille dixit, quum vix se ex magno timore recreasset, a P. Len-

consilium publicum] The Senate, as it is sometimes called.—'ad senatum deferri:' Halm has written 'ad senatum deferrem' in the second edition of Orelli. He has some direct authority for 'deferrem,' and the additional authority of the reading 'referrem,' which occurs in several MSS. There is also a reading 'rem integram referrem' at the end of the sentence. Both 'rem referre' and 'rem deferre' are Latin. But 'rem referre' is the appropriate term for bringing a matter for consideration before the Senate; and 'rem deferre' is used to signify the bringing of the information. In Livy (ii. 4) the slave 'rem ad consules detulit.' In the next chapter 'res integra refertur ad patres.' In some cases it makes little difference what term is used. Here 'deferre' is certainly the right word in the first passage 'ad senatum deferri;' but I think that in the second it ought to be 'rem integram referrem.' For Cicero did not propose to lay the information before the Senate; but to refer all the matter to the Senate. In another passage (In Cat. iv. 3) he says: "Sed ego institui referre ad vos, patres conscripti, tamquam integrum;" and no various reading is mentioned in this passage. A little further on (iv. 3) he says: "Quantum facinus ad vos delatum sit videtis." The distinction between 'deferre' and 'referre' is maintained in these two passages.

Senatum — coegi.] "Consul Lentulum quod praetor erat ipse manu tenens perducit; reliquos cum custodibus in aedem Concordiae venire jubet. Eo senatum advocat" (Sallust, Cat. c. 46). The temple of Concordia was between the Forum and the Capitolium, close to the Mons Capitolinus. The greater part of the plan of the temple is still visible. The foundation of the temple was laid by M. Furius Camillus after the reconciliation of the orders in the State (Plutarch, Camillus, c. 42). Ovid (Fasti i. 641):

"Nunc bene prospicies Latiam, Concordia, turbam;
Nunc te sacratae restituere manus.
Furius, antiquum, populi superator Etrusci
Voverat, et voti solverat ante fidem."

4. *Vulturcium*] Or Voltorcium. (Sallust, Cat. c. 46.) The 'Fides publica' or promise of free pardon, could be given, as it seems, by the Senate, which was the Roman executive. See Pro C. Rabirio, c. 10. Vol. II., and Sallust, Cat. c. 47: "post ubi fide publica dicere jussus, omnia uti gesta erant aperit (Vulturcius)." 'Fides publica' is, as Halm observes, the Greek *ἄδεια*. Plutarch (Cicero, c. 19) says: *τῷ Κροτωνιάτῃ ψηφισαμένης ἄδειαν ἐπὶ μηνύσει τῆς βουλῆς.*

sine timore—ex magno timore] 'Sine metu' is the reading of two MSS. only; Halm. Klotz, who has 'sine metu,' says in a note on this passage, that 'metus' is well-founded fear, as in this instance the fear of punishment, if the man did not get a promise of pardon; and that 'timor magnus' is the man's great alarm without respect to there being any reason for it. Accordingly this will explain, he says, why in the Edictum Quod metus caussa, we find the words "si quis metu perterritus dejectus fuerit;" and why Cicero often uses both 'metus' and 'timor' together, as in the Verrine orations (Vol. I. Verr. ii. 4. c. 19). There is, it appears, some difference between 'metus' and 'timor.' There are however passages in which 'timor' certainly does not express fear without reference to the cause of it, but a fear and a well-grounded fear too. Horace, Sat. ii. 3.

tulo se habere ad Catilinam mandata et litteras, ut servorum praesidio uteretur et ad urbem quam primum cum exercitu accederet; id autem eo consilio, ut, quum urbem ex omnibus partibus quemadmodum descriptum distributumque erat incendissent, caedemque infinitam civium fecissent, praesto esset ille qui et fugientes exciperet, et se cum his urbanis ducibus conjungeret. Introducti autem Galli jusjurandum sibi et litteras ab Lentulo, Cethego, Statilio ad suam gentem datas esse dixerunt, atque ita sibi ab his et a L. Cassio esse praescriptum, ut equitatum in Italiam quam primum mitterent; pedestres sibi copias non defuturas; Lentulum autem sibi confirmasse ex fatis Sibyllinis haruspicumque responsis se esse tertium illum Cornelium ad quem regnum hujus urbis atque imperium pervenire esset necesse; Cinnam ante se et Sullam fuisse; eundemque dixisse fatalem hunc annum esse ad interitum hujus urbis atque imperii, qui esset annus decimus post virginum absolu-

v. 53) has an example which may help Klotz's explanation:

"—— Est genus unum
Stultitiae nihilum metuenda timentis."

descriptum distributumque] I have no doubt that it should be 'discriptum,' 'marked out.' 'Descriptum' is a different thing. But no various reading is noticed in this passage. When any form of 'describere' occurs, it is very unusual to find any various reading given. Yet we might expect to find various forms of 'discribere,' even when the word ought to be some form of 'describere.' In the inscription of Venafrum (Vol. I. Verr. ii. 3. c. 30) the form 'discribere' occurs, and it is the proper word there.

Sallust (Cat. c. 43) and Plutarch (Cicero, c. 18) say something on the design of the conspirators about burning the city: "Accordingly Lentulus designed nothing small or trivial, but he determined to kill all the senators, and as many of the rest of the citizens as he could, and to burn the city, and spare nobody except the children of Pompeius, whom they intended to seize and keep in their power as securities for coming to terms with Pompeius, for already there was strong and sure report of his returning to Rome from his great expedition."

Introducti—Galli] Sallust, Cat. c. 47: 'Eadem Galli fatentur,' as Vulturcius. They said the same thing about the Libri Sibyllini, these mysterious books, which one of the Tarquinii, Priscus or Superbus, bought from the wise woman (Dionys. Hal. iv. 62). They were kept in Jupiter's temple on the Capitol. The books were destroyed B.C. 83, in the consulship of L. Cornelius Scipio and C. Norbanus, when the Capitol was burnt (Appian, B. C. i. 83; Tacit. Hist. iii. 72); but they were soon restored. The Romans let nothing ancient perish. The Capitol was burnt again in the time of Vitellius (Tacit. Hist. iii. 72). Halm quotes a passage of Tacitus (Hist. iv. 54), which is instructive The Galli were in rebellion: "Sed nihil aeque quam incendium Capitolii ut finem imperio adesse crederent impulerat. Captam olim a Gallis urbem: sed integra Jovis sede mansisse imperium. Fatali nunc igne signum caelestis irae datum, et possessionem rerum humanarum Transalpinis gentibus portendi superstitione vana Druidae canebant." The destiny of a nation may in popular opinion hang on a trifle; on a building, on a town, on a form, on a shadow. The Druids knew the destiny of Rome better than Tacitus.

datas esse] 'data esse,' Halm, on the authority of two MSS. A little further on he reads 'erant deprehensa,' for which there is better authority than for the reading 'erant deprehensae.'

post virginum] The Vestals, who were often called The Virgins. Sometimes the singular is used:

"—— dum Capitolium
Scandet cum tacita virgine Pontifex."
(Hor. Carm. iii. 30.)

Nothing is known of this affair, but Halm supposes that it is alluded to in the Brutus (c. 67). Sometimes the holy virgins broke their vow of chastity; and all Rome trem-

tionem, post Capitolii autem incensionem vicesimus. Hanc autem Cethego cum ceteris controversiam fuisse dixerunt, quod Lentulo et aliis Saturnalibus caedem fieri atque urbem incendi placeret, Cethego nimium id longum videretur. V. Ac ne longum sit, Quirites, tabellas proferri jussimus quae a quoque dicebantur datae. Primum ostendimus Cethego signum: cognovit. Nos linum incidimus: legimus. Erat scriptum ipsius manu Allobrogum senatui et populo, sese quae eorum legatis confirmasset facturum esse; orare ut item illi facerent quae sibi eorum legati recepissent. Tum Cethegus, qui paullo ante aliquid tamen de gladiis ac sicis quae apud ipsum erant deprehensa respondisset, dixissetque se semper bonorum ferramentorum studiosum fuisse, recitatis litteris debilitatus atque abjectus, conscientia [convictus,] repente conticuit. Introductus est Statilius: cognovit et signum et manum suam. Recitatae sunt tabellae in eandem fere sententiam: confessus est. Tum ostendi tabellas Lentulo, et quaesivi cognosceretne signum. Annuit. Est vero, inquam, notum quidem signum, imago avi tui, clarissimi viri, qui amavit unice patriam et cives suos; quae quidem te a tanto scelere etiam muta revocare debuit. Leguntur eadem ratione ad senatum Allobrogum populumque litterae. Si quid de his rebus

bled. The punishment was to be buried alive (Vol. II. Pro M. Fonteio, c. 14).

Saturnalibus] Sallust, Cat. c. 43. The Saturnalia at this time were celebrated on the nineteenth of December. Klotz quotes Macrobius, i. 10: "Apud majores nostros Saturnalia die uno finiebantur, qui erat a. d. XIV Kal. Jan. Sed postquam C. Caesar huic mensi duos addidit dies, sexto decimo coepta celebrari." — 'videretur:' 'videri,' some MSS.

5. *linum*] There is a curious reading 'lignum.' The 'linum' or string was bound round the 'tabella' or waxed tablet, and the wax and seal were on it. "Amplissimus ordo decrevit, eas tabulas quae publici vel privati contractus scripturam continent adhibitis testibus ita signari ut in summa marginis ad mediam partem perforatae triplici lino constringantur, atque impositum supra linum cerae signa imprimantur ut exteriores scripturae fidem interiori servent" (Paulus, Recept. Sent. ed. Arndts, v. Tit. 25. Ad Legem Corneliam Testamentariam).

aliquid tamen] "Then Cethegus, who just before had still (tamen) made some answer about the swords and daggers which had been found in his house, and said . . . was all at once struck silent." The word 'tamen' expresses the opposition between his having spoken at first and made some explanation, and his sudden silence when the letter was read. Sometimes we have 'etsi' or some other word in one of the members of the sentence, when 'tamen' is used in the other; but 'tamen' may stand almost any where in its own member of the sentence, even at the end of the sentence.

conscientia convictus,] 'Convictus' is omitted in ten good MSS. (Halm.)

avi tui,] The grandfather of Lentulus Sura was P. Cornelius Lentulus, consul B.C. 162. He was wounded in the disturbances at the time when C. Gracchus was murdered (B.C. 121); which explains why Cicero speaks in these terms of him (In Cat. iv. 6). —'eadem ratione—litterae:' letters to the same purport or effect.—'per quem—venissent:' the Allobroges were invited to join in the conspiracy by P. Umbrenus, who brought them to the house of D. Brutus (Sallust, Cat. c. 40).—'dicendi exercitatio:' Cicero here speaks of Lentulus' practice in speaking. After his death, when Cicero wrote his Brutus, he spoke of Lentulus Sura in the following terms (Brutus, c. 66): "P. Lentulus, cujus et excogitandi et loquendi tarditatem tegebat formae dignitas, corporis motus plenus et artis et venustatis, vocis et suavitas et magnitudo."

dicere vellet, feci potestatem. Atque ille primo quidem negavit: post autem aliquanto toto jam indicio exposito atque edito surrexit: quaesivit a Gallis quid sibi esset cum iis; quamobrem domum suam venissent, itemque a Vulturcio. Qui quum illi breviter constanterque respondissent, per quem ad eum, quotiesque venissent, quaesissentque ab eo nihilne secum esset de fatis Sibyllinis locutus, tum ille subito, scelere demens, quanta conscientiae vis esset ostendit. Nam quum id posset infitiari, repente praeter opinionem omnium confessus est: ita eum non modo ingenium illud et dicendi exercitatio, qua semper valuit, sed etiam propter vim sceleris manifesti atque deprehensi impudentia qua superabat omnes improbitasque defecit. Vulturcius vero subito proferri litteras atque aperiri jubet, quas sibi a Lentulo ad Catilinam datas esse dicebat. Atque ibi vehementissime perturbatus Lentulus, tamen et signum suum et manum cognovit. Erant autem [scriptae] sine nomine sed ita: *Quis sim scies ex eo quem ad te misi. Cura ut vir sis, et cogita quem in locum sis progressus; vide et quid tibi jam sit necesse, et cura ut omnium tibi auxilia adjungas etiam infimorum.* Gabinius deinde introductus, quum primo impudenter respondere coepisset, ad extremum nihil ex iis quae Galli insimulabant negavit. Ac mihi quidem, Quirites, quum illa certissima visa sunt argumenta atque indicia sceleris, tabellae, signa, manus, denique unius cujusque confessio, tum multo certiora illa, color, oculi, vultus, taciturnitas. Sic enim obstupuerant, sic terram intuebantur, sic furtim nonnumquam inter sese aspiciebant, ut non jam ab aliis indicari sed indicare se ipsi viderentur.

VI. Indiciis expositis atque editis senatum consului de summa re publica quid fieri placeret. Dictae sunt a principibus acerrimae ac fortissimae sententiae, quas senatus sine ulla varietate est secutus. Et quoniam nondum est perscriptum senatus consultum,

scriptae] This word is wanting in seven good MSS.—'vide quid:' 'vide ecquid,' Halm, in the second edition. Sallust (Cat. c. 44) professes to give Lentulus' letter. In substance it is the same as Cicero's, but the difference in the words shows that the letter in Cicero and the letter in Sallust are not both genuine, and neither of them may be genuine: "Quis sim ex eo quem ad te misi cognosces. Fac cogites in quanta calamitate sis et memineris te virum: consideres quid tuae rationes postulent; auxilium petas ab omnibus etiam ab infimis." Which is the original? Halm thinks that the style of the letter in Cicero, its careless expression showing haste, bears altogether the stamp of originality. It is difficult to determine this matter by the style. But Cicero must have seen the original, and could make it known in its original form if he chose. We are not sure that Sallust did see or could have seen the original.

6. *Indiciis*] The evidence was given (expositis). Shortly after he says 'quid senatus censuerit exponam;' 'I will tell you.' I do not know how much 'editis' means; but it signifies that the evidence had been reduced into form. The practice of taking down evidence in writing is mentioned in the speech Pro Sulla, c. 14.

ex memoria vobis, Quirites, quid senatus censuerit exponam. Primum mihi gratiae verbis amplissimis aguntur, quod virtute, consilio, providentia mea res publica periculis sit maximis liberata: deinde L. Flaccus et C. Pomptinus praetores, quod eorum opera forti fidelique usus essem, merito ac jure laudantur; atque etiam viro forti, collegae meo, laus impertitur, quod eos qui hujus conjurationis participes fuissent a suis et a rei publicae consiliis removisset. Atque ita censuerunt, ut P. Lentulus quum se praetura abdicasset in custodiam traderetur: itemque uti C. Cethegus, L. Statilius, P. Gabinius, qui omnes praesentes erant, in custodiam traderentur: atque idem hoc decretum est in L. Cassium qui sibi procurationem incendendae urbis depoposcerat; in M. Caeparium, cui ad sollicitandos pastores Apuliam attributam esse erat indicatum; in P. Furium qui est ex iis colonis quos Faesulas L. Sulla deduxit; in Q. Manlium Chilonem qui una cum hoc Furio semper erat in hac Allobrogum sollicitatione versatus; in P. Umbrenum, libertinum hominem, a quo primum Gallos ad Gabinium perductos esse constabat. Atque ea lenitate senatus usus est, Quirites, ut ex tanta conjuratione tantaque hac multitudine domesticorum hos-

collegae meo,] This was C. Antonius, a 'vir fortis,' as Cicero calls him, an honest man; but Cicero knew that he was not. Catilina had expected Antonius' support. Antonius had done nothing in the city in the affair of the conspiracy; no mention is made of Cicero consulting him. It would be almost a certain conclusion from Cicero's words that he was not in Rome; and Sallust (Cat. c. 36) says that the Senate, on hearing of Catilina having arrived in Manlius' camp, ordered the consuls to raise troops, and Antonius to follow Catilina with an army, while Cicero watched over the city.

abdicasset] "At length the Senate having by a vote promised a pardon to the man of Croton on condition of his giving information, Lentulus being convicted abdicated his office, for he happened to be praetor, and laying down his robe with the purple hem before the Senate, assumed a dress suitable to the occasion" (Plutarch, Cicero, c. 19). A Roman could not be tried while he held a magistratus; nor could he be deprived of his office. There is however an instance recorded by Plutarch (Tib. Gracchus, c. 12) of a tribune Octavius being deprived of his office by a vote of the tribes on the proposal of Ti. Gracchus; but this was irregular. In the instance of this Lentulus there was a show of voluntary resignation. Examples of abdication are collected in Becker's Handbuch (ii. p. 53), who has discussed the cases mentioned in Livy, iii. 29; v. 9; Dionys. Hal. x. 35; Livy, viii. 36. The expression is 'se magistratu abdicare,' to detach himself from the office. Lentulus was put in 'libera custodia' (Sallust, Cat. c. 47). The old rule about a magistratus not being liable to be tried during his office is preserved in an excerpt in the Digest (2. 4. 2) from Ulpian: "In jus vocari non oportet neque consulem neque praefectum neque praetorem neque proconsulem neque ceteros magistratus qui imperium habent, et qui coercere aliquem possunt, et jubere in carcerem duci."

Q. Manlium Chilonem] This is the MSS. reading, which Halm has altered to 'Q. Annium Chilonem,' who is twice mentioned by Sallust (Cat. c. 17. 50). Q. Cicero (De petit. consul. § 10) also says: "Qui (Catilina) ex curia Curios et Annios—sibi amicissimos comparavit." The mistake in the MSS. of Cicero, if it is a mistake, is supposed to have arisen from the name of the centurion Manlius having been so often mentioned.

tantaque hac] This is the reading of many MSS. One has 'inac;' and several have 'in hac.' The rest have 'vi ac.'—'novem hominum:' they were executed on the fifth of December, but only five of them; for Cassius, Furius, Chilo, and Umbrenus had escaped

tium, novem hominum perditissimorum poena re publica conservata, reliquorum mentes sanari posse arbitraretur. Atque etiam supplicatio diis immortalibus pro singulari eorum merito meo nomine decreta est, quod mihi primum post hanc urbem conditam togato contigit; et his decreta verbis est, QUOD URBEM INCENDIIS, CAEDE CIVES, ITALIAM BELLO LIBERASSEM. Quae supplicatio si cum ceteris conferatur, hoc interest, quod ceterae bene gestâ, haec una conservatā re publicā constituta est. Atque illud, quod faciendum primum fuit, factum atque transactum est. Nam P. Lentulus, quamquam patefactis indiciis, confessionibus suis, judicio senatus non modo praetoris jus, verum etiam civis amiserat, tamen magistratu se abdicavit; ut, quae religio C. Mario clarissimo viro non fuerat quo minus C. Glauciam, de quo nihil nominatim erat decretum, praetorem occideret, ea nos religione in privato P. Lentulo puniendo liberaremur.

VII. Nunc quoniam, Quirites, consceleratissimi periculosissimique belli nefarios duces captos jam et comprehensos tenetis, existimare debetis omnes Catilinae copias, omnes spes atque opes, his depulsis urbis periculis concidisse. Quem quidem ego quum ex urbe pellebam, hoc providebam animo, Quirites, remoto Catilina non mihi esse P. Lentuli somnum, nec L. Cassii adipes, nec C. Cethegi

(Sallust, Cat. c. 50. 55); and we hear no more of them. Caeparius, who had got away, was caught and punished. See Pro Sulla, c. 11.

quod mihi primum] Caesar (B. G. ii. 35) makes a like boast about the number of days for which a 'supplicatio' was decreed for his victories in Gallia: "Ob easque res ex literis Caesaris dies quindecem supplicatio decreta est, quod ante id tempus accidit nulli." The 'supplicatio' was moved by L. Aurelius Cotta (Phil. ii. c. 6): "L. Cotta, vir summo ingenio summaque prudentia, rebus iis gestis quas tu reprehendis, supplicationem decrevit verbis amplissimis, eique illi ipsi quos modo nominavi consulares senatusque cunctus assensus est; qui honos post conditam hanc urbem habitus est togato ante me nemini." We have the same in the Oratio Pro Sulla, c. 30; and in a letter to Q. Metellus Celer (Ad Fam. v. 2): "Qui curiam caede, urbem incendiis, Italiam bello liberasset." This, says Halm, the rescuing of Italy from war, seems rhetorical amplification. Other commentators have thought that Cicero says too much. Klotz defends him. Italy might have had a war with the Allobroges, if they had been brought into Italy by Catilina. This is plain enough. It might have been so. But the matter is hardly worth discussion. Cicero always made the most of his services. His exaggerated style is well enough known to those who read him.

hoc interest,] In Halm's school edition and in the common editions the reading is 'hoc intersit,' a reading which would make a careful student pause to consider whether the text was right. 'Hoc intersit' is Latin, that is, the subjunctive may stand in this clause in correspondence with the subjunctive in the first clause; but it would not express what is meant. Cicero says, "if you were to compare this 'supplicatio' with all others, the difference between them is this."

C. Glauciam,] Glaucia had not abdicated his praetorship. He was killed with the insignia of his office on him, and a quaestor and a tribune at the same time; all with the insignia of their office on them (Vol. II. p. 472). They had been declared rebels, an armed force had compelled them to surrender; but they were shut up in the Curia Hostilia after receiving the 'fides publica,' as some say, and as Cicero hardly ventures to deny. Here he perverts the facts.

7. *adipes,*] The MSS. are in favour of

furiosam temeritatem pertimescendam. Ille erat unus timendus ex istis omnibus, sed tamdiu dum urbis moenibus continebatur. Omnia norat, omnium aditus tenebat: appellare, tentare, sollicitare poterat, audebat: erat ei consilium ad facinus aptum, consilio autem neque manus neque lingua deerat. Jam ad certas res conficiendas certos homines delectos ac descriptos habebat. Neque vero quum aliquid mandarat confectum putabat: nihil erat quod non ipse obiret, occurreret, vigilaret, laboraret: frigus, sitim, famem ferre poterat. Hunc ego hominem tam acrem, tam paratum, tam audacem, tam callidum, tam in scelere vigilantem, tam in perditis rebus diligentem nisi ex domesticis insidiis in castrense latrocinium compulissem, dicam id quod sentio, Quirites, non facile hanc tantam molem mali a cervicibus vestris depulissem. Non ille nobis Saturnalia constituisset, neque tanto ante exitii et fati diem rei publicae denuntiavisset, neque commisisset ut signum, ut litterae suae, testes denique manifesti sceleris deprehenderentur. Quae nunc illo absente sic gesta sunt, ut nullum in privata domo furtum umquam sit tam palam inventum quam haec tanta in re publica conjuratio manifesto inventa atque deprehensa est. Quod si Catilina in urbe ad hanc diem remansisset, quamquam quoad fuit omnibus ejus consiliis occurri atque obstiti, tamen, ut levissime dicam, dimicandum nobis cum illo fuisset, neque nos umquam, quum ille in urbe hostis esset, tantis periculis rem publicam tanta pace, tanto otio, tanto silentio liberassemus. VIII. Quamquam haec

'adipes.' The common reading is 'adipem.' Perhaps there is more contempt expressed by the plural. Fat men are not so dangerous as lean men; yet they are sometimes mischievous in their heavy way. Lentulus was sleepy-headed, as Cicero has hinted (c. 3). Cassius was a fat fellow. Cethegus was a madman. Not one of them was a dangerous conspirator. Caesar (Julius Caesar, Act I. Scene 2, Shakspere) knew the value of fat men :—

> "Let me have men about me that are fat,
> Sleek-headed men, and such as sleep o' nights;
> Yon Cassius has a lean and hungry look;
> He thinks too much; such men are dangerous."

Shakspere got this from Plutarch (Caesar, c. 62), the great judge of men and manners. It is no fault in Shakspere that he took it from Plutarch. It is a rare merit to know what to select and what to reject.

Omnia norat,] Compare In Cat. ii. 4. —'delectos ac descriptos:' no variation is mentioned here. Halm says of 'descriptos,' 'determined, separated into classes.' This is a translation of 'discriptos.'

occurreret, vigilaret,] Halm observes that these words could not be connected with 'quod' if 'obiret' had not been placed before them. It is true that 'occurrere' properly requires a dative; but I am not sure that his remark is true when 'quod' is used.

Saturnalia] See the Introduction. Halm prints: "ut signum, ut literae suae testes manifesti sceleris deprehenderentur." Klotz has "ut signum, ut literae, testes denique manifesti sceleris deprehenderentur." I do not know on what authority he omits 'suae,' but we could do without it very well. 'Denique is omitted by nine MSS.; but the greater number have it.

8. *Quamquam*] 'Tamen' sometimes corresponds to 'quamquam,' but it does not always follow it. There is another example in this speech, c. 12: "Quamquam, Quirites,

omnia, Quirites, ita sunt a me administrata ut deorum immortalium nutu atque consilio et gesta et provisa esse videantur: idque quum conjectura consequi possumus, quod vix videtur humani consilii tantarum rerum gubernatio esse potuisse; tum vero ita praesentes his temporibus opem et auxilium nobis tulerunt ut eos paene oculis videre possemus. Nam ut illa omittam, visas nocturno tempore ab occidente faces ardoremque caeli, ut fulminum jactus, ut terrae motus relinquam, ut omittam cetera quae tam multa nobis consulibus facta sunt, ut haec quae nunc fiunt canere dii immortales viderentur, hoc certe, Quirites, quod sum dicturus neque praetermittendum neque relinquendum est. Nam profecto memoria tenetis, Cotta et Torquato consulibus complures in Capitolio res de caelo esse percussas, quum et simulacra deorum immortalium depulsa sunt, et statuae veterum hominum dejectae, et legum aera liquefacta; tactus est etiam ille qui hanc urbem condidit Romulus, quem inauratum in Capitolio parvum atque lactentem uberibus

mihi quidem," &c. The division into chapters is one of the great faults of our editions, though the division is convenient for some purposes; but here we have besides the division into chapters the commencement of a new paragraph in the editions. This 'Quamquam haec omnia' is the continuation of what has just been said. He adds, "Howsoever ('quamquam,' 'in some way or other,' 'however that may be'), I have managed all this in such a way that every thing seems to have been done and provided with the consent and by the wisdom of the immortal gods."

Cicero often speaks in this style in his orations. He wished to work on the superstition of his hearers; though if, as he says in another place (Pro Cluentio, c. 61. Vol. II.), the stories about punishment after death were considered to be an idle tale, the belief in signs and wonders may have been weakened also. But there is still a great difference between unbelief about the unseen, and the effect produced by the sight of wonderful and unusual appearances. A man may be terrified by the comet, or the tempest, or the earthquake, and consider them the effect of supernatural agency, who may laugh at the story of Cerberus and Ixion.

ut illa omittam,] Cicero even put this into poetry, such as he wrote. There is a long passage in the Divin. i. c. 11, which begins:

> "Principio aetherio flammatus Juppiter igni,"

from the second book of his poem on his consulship.

praetermittendum—relinquendum] Halm explains the difference between these two words by a passage in the De Officiis (iii. c. 2): "Minime vero assentior iis qui negant eum locum a Panaetio praetermissum, sed consulto relictum."

Cotta et Torquato] In B.C. 65. Dion Cassius (37. c. 9) speaks of the writing on the tablets being melted and made indistinct. Tacitus (Hist. iv. 40) has the expression 'legum aera,' the bronzes on which the Leges were written. Some fragments of such bronzes are still extant. Ovid alludes to the practice of fixing these bronze tablets to walls or other flat surfaces by metal pins:

> " —— nec verba minacia fixo
> Aere legebantur." (Met. i. 91.)

The figure of the wolf suckling the children was also damaged as we are told here, and again in a passage in the De Divinatione (ii. 20):—

> "Nam pater altitonans stellanti nixus Olympo
> Ipse suos quondam tumulos ac templa petivit,
> Et Capitolinis injecit sedibus ignes.

Tum statua Nattae, tum simulacra deorum, Romulusque et Remus cum altrice belua, vi fulminis icti conciderunt, deque his rebus haruspicum exstiterunt responsa verissima."

lupinis inhiantem fuisse meministis. Quo quidem tempore quum haruspices ex tota Etruria convenissent, caedes atque incendia et legum interitum et bellum civile ac domesticum et totius urbis atque imperii occasum appropinquare dixerunt, nisi dii immortales omni ratione placati suo numine prope fata ipsa flexissent. Itaque illorum responsis tum et ludi per decem dies facti sunt, neque res ulla quae ad placandos deos pertineret praetermissa est; iidemque jusserunt simulacrum Jovis facere majus et in excelso collocare et contra atque ante fuerat ad orientem convertere: ac se sperare dixerunt, si illud signum quod videtis solis ortum et forum curiamque conspiceret, fore ut ea consilia quae clam essent inita contra salutem urbis atque imperii illustrarentur, ut a senatu populoque Romano perspici possent. Atque illud [ita] collocandum consules illi locaverunt, sed tanta fuit operis tarditas ut neque superioribus consulibus neque nobis ante hodiernum diem collocaretur. IX. Hic quis potest esse tam aversus a vero, tam praeceps, tam mente captus qui neget haec omnia quae videmus praecipueque hanc urbem deorum immortalium nutu ac potestate administrari? Etenim quum esset ita responsum, caedes, incendia, interitum rei publicae comparari, et ea per cives, quae tum propter magnitudinem scelerum nonnullis incredibilia videbantur, ea non modo cogitata a nefariis civibus verum etiam suscepta esse sensistis.

contra atque] Or 'contra ac.' See Vol. I. Verr. ii. 4. c. 6. Cicero also says 'contra quam.'

illustrarentur] Halm says that 'ita' before 'illustrarentur' is expected. He says 'generally' (man erwartet). But he should only speak for himself. Such forms of expression are very common in Cicero, and any body who will take a note of this remark will find them in his reading.

Atque illud ita] 'Atque illud signum,' Halm. Some MSS. omit 'signum.'—'locaverunt:' this word is explained Vol. I. Act. i. c. 6. In the letter of Sulpicius to Cicero, he says of the monument of Marcellus at Athens (Ad Div. iv. 12): "Posteaque curavimus ut iidem Athenienses in eodem loco monumentum ei faciendum locarent." The consuls were instructed to make this contract for the setting up of the statue. It was the business of the censors generally to make the contracts for buildings and public works.

neque superioribus, &c.] Halm has omitted the 'a' which stands before 'superioribus' and before 'nobis' in all editions before his. He compares 'nobis consulibus' in this chapter. The completion of the work just at this time may have been through calculation or design; but we must take the story as we have it. Cicero tells us the same thing in the De Divinatione (ii. c. 20): "Mirabile autem illud quod eo ipso tempore quo fieret judicium conjurationis in senatu, signum Jovis biennio post quam erat locatum in Capitolio collocabatur." Klotz says, "with good reason did C. A. Boettiger in a school essay on this passage which first appeared at Bautzen, 1791, 4to., and now is contained in Sillig's collection of Boettiger's Opuscula, direct attention to this, that Cicero with well-calculated dexterity had now hurried the erection of this statue in order to deceive the good-natured folk." But do we need an editor to tell us this? or if we choose to say that he knows no more about it than we do, and no more than the text says, what answer can he make? It is well said, that of all cant the cant of criticism is the most tormenting.

9. *mente captus*] See Vol. I. Verr. ii. 4. c. 45; and 5. c. 25.

Illud vero nonne ita praesens est ut nutu Jovis Optimi Maximi factum esse videatur, ut quum hodierno die mane per forum meo jussu et conjurati et eorum indices in aedem Concordiae ducerentur, eo ipso tempore signum statueretur? quo collocato atque ad vos senatumque converso, omnia et senatus et vos quae erant contra salutem omnium cogitata illustrata et patefacta vidistis. Quo etiam majore sunt isti odio supplicioque digni, qui non solum vestris domiciliis atque tectis, sed etiam deorum templis atque delubris sunt funestos ac nefarios ignes inferre conati. Quibus ego si me restitisse dicam, nimium mihi sumam et non sim ferendus. Ille, ille Juppiter restitit: ille Capitolium, ille haec templa, ille hanc urbem, ille vos omnes salvos esse voluit. Diis ego immortalibus ducibus hanc mentem, Quirites, voluntatemque suscepi atque ad haec tanta indicia perveni. Jam vero illa Allobrogum sollicitatio * * *,

Illud vero] Quintilian (Inst. v. 11. § 42) alludes to this passage, "in contione contra Catilinam, quum signum Jovis columnae impositum ostendit."—'praesens:' it is not easy to find a word to express exactly this sense of 'praesens.' Cicero is speaking of the coincidence which he is going to mention. Halm thinks that the notion comes nearer to 'divinum' than to 'conspicuum,' 'manifestum,' as Ernesti supposed; and accordingly Cicero says, "Is not the visible interposition of the heavenly power manifest in this?" On the words 'ut quum,' Halm says that 'ut' depends on 'illud,' and 'ut quum' is said short for 'illud quod factum est.' He compares another example (Vol. I. Verr. v. c. 6): "Hoc vero novum et ejusmodi est ut magis propter reum quam propter rem ipsam credibile videatur, ut homines servos —dimiserit." The two passages are the same, but the explanation seems to me incorrect. In the passage in this oration 'ut quum—statueretur' depends on 'factum esse videatur,' and it also refers to 'Illud' at the beginning of the sentence.—'et senatus et vos:' om. Halm.—'hanc urbem:' 'cunctam urbem,' Halm.—'Diis ego—ducibus:' comp. Pro Sulla, c. 14.

Jam vero—ereptum.] I have followed Halm in Orelli's ed. in this sentence, which in the common texts is confused and unintelligible. The gods deprived the conspirators of prudence, but permitted their audacious designs; and so they led them to their ruin. It would have been just as easy and much better to have prevented their designs. But Cicero expresses an idea, which is often found in ancient writers, that the gods will some men's ruin, and take the means of accomplishing it. So says Euripides in a fragment quoted by Halm:

> Ὅταν γὰρ ὀργὴ δαιμόνων βλάπτῃ τινὰ,
> Τοῦτ' αὐτὸ πρῶτον ἐξαφαιρεῖται φρενῶν
> Τὸν νοῦν τὸν ἐσθλὸν, ἐς δὲ τὴν χείρω τρέπει
> Γνώμην, ἵν' εἰδῇ μηδὲν ὧν ἁμαρτάνει.

This passage goes further than Cicero's, which merely represents the gods as depriving villains of all prudence; which may be interpreted to mean that a villain often fails in his design, because his prudence is not equal to his wickedness. But Euripides represents the daemon as first hating a man, then taking from him all understanding, and lastly turning his mind to the worse judgment, so that he knows not when he is doing wrong. This is a complete description of perfect malignity, of a daemon who thinks of nothing but mischief.—'ex civitate male pacata:' the Allobroges, who had often fought with the Romans, but were now reduced to submission. (See Vol. II. Pro Fonteio, c. 12, and c. 16.) The Allobroges rose again in B.C. 61, and were put down by C. Pomptinus, the man whom Cicero mentions (c. 2; and in the oration De Provinciis Consularibus, c. 13). The Romans knew little of the nations of Gallia beyond the limits of the Provincia, and only those who bordered on the Provincia, such as the Aedui, Sequani, and Arverni. But they knew that the Galli were the most formidable enemies that the Romans had ever encountered, both the Galli of North Italy and the Galli who had often crossed the Alps to fight with the armies of Rome. The complete subjugation of the Trans-

jam ab Lentulo ceterisque domesticis hostibus tam dementer tantae res, creditae et ignotis et barbaris, commissaeque litterae numquam essent profecto, nisi ab diis immortalibus huic tantae audaciae consilium esset ereptum. Quid vero? ut homines Galli ex civitate male pacata, quae gens una restat quae populo Romano bellum facere et posse et non nolle videatur, spem imperii et rerum amplissimarum ultro sibi a patriciis hominibus oblatam negligerent, vestramque salutem suis opibus anteponerent, id non divinitus factum esse putatis; praesertim qui nos non pugnando sed tacendo superare potuerint?

X. Quamobrem, Quirites, quoniam ad omnia pulvinaria supplicatio decreta est, celebratote illos dies cum conjugibus ac liberis vestris. Nam multi saepe honores diis immortalibus justi habiti sunt ac debiti, sed profecto justiores numquam. Erepti enim estis ex crudelissimo ac miserrimo interitu, [et] erepti sine caede, sine sanguine, sine exercitu, sine dimicatione: togati me uno togato duce et imperatore vicistis. Etenim recordamini, Quirites, omnes civiles dissensiones, neque solum eas quas audistis, sed et eas quas vosmetipsi meministis atque vidistis. L. Sulla P. Sulpicium oppressit: ejecit ex urbe C. Marium, custodem hujus urbis, multosque

alpine Galli was necessary to secure the tranquillity of Italy, and there was a man in Rome ready to do the work; and he did it. In B.C. 58 C. Caesar had for his Provincia Gallia Cisalpina and Gallia north of the Alps, with a commission that empowered him to carry the Roman arms as far as he could (Caesar, B. G. i. 35; Cicero, De Provinciis Consul., c. 13).

superare potuerint?] 'Potuerint' is Madvig's emendation. One MS. omits 'praesertim – potuerunt.' As all the MSS. have 'potuerunt,' and "cum sententia languida sit," says Halm, he will not object to any body striking out the words from 'praesertim' to 'potuerunt.' But it is no more languid than many hundred sentences in Cicero. It seems to me well said.

10 *pulvinaria*] A 'pulvinar' was a sofa on which the statues of the gods were placed, when a 'lectisternium' was made on the occasion of a 'supplicatio.' Livy says (22. c. 1): "Decretum—uti supplicatio per triduum ad omnia pulvinaria haberetur." 'Pulvinar,' says Servius (Virg. Georg. iii. 533) is "lectulus in quo deorum statua reclinabatur." See Horace, Carm. i. 37.

P. Sulpicium] This tribune P. Sulpicius Rufus was of the Marian faction. In B.C. 88 he proposed a Lex for the transfer of the command in the Mithridatic war from Sulla to Marius. Sulla, who was still in Italy and near Rome, attacked the city with his soldiers, broke into it, and proscribed Sulpicius and others (Plutarch, Sulla, c. 8, &c.; Appian, B. C. i. 60). Sulpicius was caught in the marshes of Laurentum, and his head was fixed on the Rostra, a sign of what was going to come (Vell. Pat. ii. 19). "Sulpicius," says Cicero (Brutus, c. 55) "was one of the most dignified orators that I have heard, and so to speak the most tragic. His voice was powerful, sweet, and clear; his gesture and the movements of his body graceful, and yet it seemed that he was trained to the forum and not to the stage; his language was vehement and flowing, and yet not redundant nor loose." Such was one of the great orators who grew up in the stormy times of the Republic: "cui quidem ad summam gloriam eloquentiae florescenti ferro vita erepta est, et poena temeritatis non sine magno rei publicae malo constituta est." (Cic. Or. iii. 3.) He speaks in the same terms of him again (Or. i. 29). P. Sulpicius is one of the speakers in Cicero's Dialogue De Oratore.

ejecit ex urbe] Halm prints the passage thus: "L. Sulla P. Sulpicium oppressit,

fortes viros partim ejecit ex civitate, partim interemit. Cn. Octavius consul armis ex urbe collegam suum expulit: omnis hic locus acervis corporum et civium sanguine redundavit. Superavit postea Cinna cum Mario. Tum vero clarissimis viris interfectis lumina civitatis exstincta sunt. Ultus est hujus victoriae crudelitatem postea Sulla; ne dici quidem opus est quanta diminutione civium et quanta calamitate rei publicae. Dissensit M. Lepidus a clarissimo et fortissimo viro Q. Catulo: attulit non tam ipsius interitus rei publicae luctum quam ceterorum. Atque illae tamen omnes dissensiones erant ejusmodi, [Quirites,] quae non ad delendam sed ad commutandam rem publicam pertinerent: non illi nullam esse rem publicam, sed in ea quae esset se esse principes, neque hanc urbem conflagrare, sed se in hac urbe florere voluerunt. [Atque illae tamen omnes dissensiones, quarum nulla exitium rei publicae quaesivit, ejusmodi fuerunt ut non reconciliatione concordiae sed internicione civium dijudicatae sint.] In hoc autem uno post hominum memoriam maximo crudelissimoque bello, quale bellum nulla umquam barbaria cum sua gente gessit, quo in bello lex haec fuit a Lentulo, Catilina, Cassio, Cethego constituta, ut omnes

[ejecit ex urbe]; C. Marium," &c.; and he thinks that 'ejecit ex urbe' may be a gloss of 'oppressit.' He also thinks that if we keep the punctuation which is in the text, it will be hard to convince ourselves of the genuineness of the words. I find it very difficult to suppose that Cicero would say that Sulla 'oppressit' P. Sulpicius, and then that he should add 'ejecit urbe;' for though Sulpicius was driven from the city, he was caught (oppressus) and killed, but Marius was driven out and not caught. 'Oppressit' applies properly to Sulpicius, and 'ejecit' to Marius. Lambinus says that 'ejecit ex urbe' is not in some old MSS.

Cn. Octavius] He expelled his colleague Cinna, B.C. 87 (Plutarch, Marius, c. 41); but C. Marius joined Cinna at the end of the year, when they broke into Rome, and were elected consuls for B.C. 86. Marius and Cinna put to death many illustrious men, the consuls Cn. Octavius and Merula, the orator M. Antonius, whose death is told by Plutarch in a most touching way (Marius, c. 44), Q Catulus who had fought against the Cimbri and others. This savage butchery was surpassed by the cruelty of L. Sulla, who returned from the east and made himself master of Rome (B.C. 82). Nothing yet recorded in history is so bad as the ferocious vengeance of Sulla (Florus, iii. 21; Vell. Pat. ii. c. 20).

M. Lepidus] He was consul in B.C. 78, the year of Sulla's death, and immediately after the funeral he began to attempt to undo Sulla's work. His colleague Q. Catulus, the son of him who had fought against the Cimbri, opposed him, and Lepidus fled to Sardinia, where he died of vexation. There was no reason to lament him; and Cicero means to say that.

Atque illae—sint.] Ernesti and others after him have found a difficulty in this sentence. The first part of the sentence at least, which is a repetition of the beginning of the preceding sentence, can hardly be the genuine text of Cicero.

barbaria] Compare Pro Sulla c. 27. The word Barbaria is used by Horace, Ep. i. 2. 7:

"Graecia Barbariae lento collisa duello."

ut omnes—ducerentur,] "That all should be treated as enemies whose lives would be safe if the city were saved." This is said too rhetorically; it is bad taste to aim at an antithesis when the thought is obscured by it. He means to say that every man whose safety depended on the safety of the city would have been massacred by Lentulus and the conspirators, who would consider them as enemies. The context shows that 'hostium numero ducere' means to

qui salva urbe salvi esse possent in hostium numero ducerentur, ita me gessi, Quirites, ut salvi omnes conservaremini; et quum hostes vestri tantum civium superfuturum putassent, quantum infinitae caedi restitisset, tantum autem urbis quantum flamma obire non potuisset, et urbem et cives integros incolumesque servavi.

XI. Quibus pro tantis rebus, Quirites, nullum ego a vobis praemium virtutis, nullum insigne honoris, nullum monumentum laudis postulo, praeterquam hujus diei memoriam sempiternam. In animis ego vestris omnes triumphos meos, omnia ornamenta honoris, monumenta gloriae, laudis insignia condi et collocari volo. Nihil me mutum potest delectare, nihil tacitum, nihil denique ejusmodi quod etiam minus digni assequi possint. Memoria vestra, Quirites, res nostrae alentur, sermonibus crescent, litterarum monumentis inveterascent et corroborabuntur; eandemque diem intelligo, quam spero aeternam fore, propagatam esse et ad salutem urbis et ad memoriam consulatus mei; unoque tempore in hac re publica duos cives exstitisse, quorum alter fines vestri imperii non terrae sed caeli regionibus terminaret, alter ejusdem imperii domicilium sedemque servaret. XII. Sed quoniam earum rerum quas ego gessi non eadem est fortuna atque conditio quae illorum qui externa bella gesserunt, quod mihi cum iis vivendum est quos vici ac subegi, illi hostes aut interfectos aut oppressos reliquerunt, vestrum est, Quirites, si ceteris facta sua recte prosunt, mihi mea

put to the sword; as in Caesar, B. G. i. 28: "reductos in hostium numero habuit."

11. *nihil me mutum*] He has said that he wants no monument of his glory; he only wants the remembrance of the day to be perpetuated. He would live in men's minds. If a man desires lasting fame, he must not expect it from stone and bronze; he must do something by which it will be transmitted from generation to generation. In the memory, in men's talk, in books (literarum monumentis), live the great names of past ages. The name survives when the body has become dust, and the monument is destroyed or forgotten.

> "Von des Lebens Gütern allen
> Ist der Ruhm das höchste doch;
> Wenn der Leib in Staub zerfallen,
> Lebt der grosse Name noch."
> (Schiller.)

propagatam esse] See In Cat. ii. 5. The latter part of this chapter has caused the critics some difficulty, and it has been suggested that something has been omitted after 'consulatus mei.' But the words 'unoque tempore—servaret' may depend on 'intelligo.'

The two citizens (duos cives) were himself and Cn. Pompeius, who had carried the Roman arms farther in the east than any man before his time. Cicero speaks of him again in the same extravagant language (In Cat. iv. c. 10). Pompeius had fixed the boundaries of the Roman empire not by the regions of the earth, but by the divisions of the heavens; a form of expression both extravagant and obscure. Halm quotes Varro (De Lingua Lat. v. § 31): "Ut omnis natura in caelum et terram divisa est, sic caeli regionibus terra in Asiam et Europam. Asia enim jacet ad meridiem et austrum, Europa ad septentriones et aquilonem."

12. *facta sua recte*] If we keep this order, 'recte' belongs to 'prosunt.' Some

ne quando obsint providere. Mentes enim hominum audacissimorum sceleratae ac nefariae ne vobis nocere possent ego providi; ne mihi noceant vestrum est providere. Quamquam, Quirites, mihi quidem ipsi nihil ab istis jam noceri potest. Magnum enim est in bonis praesidium quod mihi in perpetuum comparatum est; magna in re publica dignitas quae me semper tacita defendet; magna vis est conscientiae quam qui negligunt quum me violare volent se ipsi indicabunt. Est etiam [in] nobis is animus, Quirites, ut non modo nullius audaciae cedamus, sed etiam omnes improbos ultro semper lacessamus. Quod si omnis impetus domesticorum hostium depulsus a vobis se in me unum converterit, vobis erit providendum, Quirites, qua conditione posthac eos esse velitis qui se pro salute vestra obtulerint invidiae periculisque omnibus. Mihi quidem ipsi quid est quod jam ad vitae fructum possit acquiri, praesertim quum neque in honore vestro, neque in gloria virtutis quidquam videam altius quo mihi libeat ascendere? Illud profecto perficiam, Quirites, ut ea quae gessi in consulatu privatus tuear atque ornem; ut si qua est invidia [in] conservanda re publica suscepta laedat invidos, mihi valeat ad gloriam. Denique ita me in re publica tractabo ut meminerim semper quae gesserim, curemque ut ea virtute non casu gesta esse videantur. Vos, Quirites, quoniam jam

MSS. have 'recte facta sua;' and two have 'sua facta recte.' 'Sua recte facta' is not found in any MS.

ultro] He will not yield to the 'audaciores;' he will even (ultro) attack the bad. See Vol. I. Index.

neque in honore vestro, neque in gloria virtutis] Halm quotes a passage from the oration Pro Cn. Plancio, c. 25: "In virtute multi sunt ascensus, ut is gloria maxime excellat qui virtute plurimum praestet: honorum populi finis est consulatus quem magistratum jam octingenti fere consecuti sunt. Horum si diligenter quaeras vix decimam partem reperies gloria dignam." Here he says that neither in the honours conferred by the people nor in reputation for virtue does he see any higher place to aspire to. The notion of Glory has been explained in another place (Vol. II. Pro C. Rabirio, c. 11). It is that which other men think and say of a man: no more. Virtue is the Roman virtue: it is not the thing which is loosely understood by our term Virtue. It is the manly character as opposed to the feminine; the strong, the courageous, and the honest, but its essential character is devotion to the Fatherland, to Rome. (See note on the Carmen Saeculare of Horace, v. 57, Macleane's ed.) "Ce que j'appelle la vertu dans une république est l'amour de la patrie, c'est à dire l'amour de l'égalité" (Montesquieu). The first part of the definition is true: the explanation of the definition is false, or it is ambiguous.

privatus tuear] He says (Ad Att. i. 19): "Ego autem, ut semel Nonarum illarum Decembrium junctam invidia ac multorum inimicitiis eximiam quandam atque immortalem gloriam consecutus sum, non destiti eadem animi magnitudine in re publica versari et illam institutam ac susceptam dignitatem tueri."

valeat ad gloriam.] "Etenim ista quaestura ad eam rem valet ut," &c. Vol. I. Divin. c. 19. Here he says: "that, if any ill will has been gotten by saving the state, it may turn to the damage of those who are the cause of it, but to my glory." Here 'invidia' means evil report about a man, or ill will towards him, and the 'invidi' are those who have caused it. See note on Invidia, Vol. II. Pro Cluentio, c. 1.

me—tractabo] 'I will so conduct myself.' Ad Fam. xiii. 12 he says: "Q. Fufidius fuit in Cilicia mecum tribunus militum, quo in munere ita se tractavit," &c.

nox est, venerati Jovem, illum custodem hujus urbis ac vestrum, in vestra tecta discedite, et ea, quamquam jam periculum est depulsum, tamen aeque ac priori nocte custodiis vigiliisque defendite. Id ne vobis diutius faciendum sit atque ut in perpetua pace esse possitis providebo, Quirites.

venerati—illum] There is a reading 'veneramini illum Jovem.'

priori nocte] In which night the Allobroges were arrested at the Pons Milvius.

Quirites.] This is omitted in five MSS. cited by Halm. Opinions may differ about the position of this word at the end of the speech. Halm omits it.

M. TULLII CICERONIS

IN

L. CATILINAM

ORATIO QUARTA,

HABITA IN SENATU.

I. Video, patres conscripti, in me omnium vestrum ora atque oculos esse conversos. Video vos non solum de vestro ac rei publicae, verum etiam si id depulsum sit de meo periculo esse sollicitos. Est mihi jucunda in malis et grata in dolore vestra erga me voluntas; sed eam, per deos immortales, quaeso, deponite atque obliti salutis meae de vobis ac de liberis vestris cogitate. Mihi si haec conditio consulatus data est ut omnes acerbitates, omnes dolores cruciatusque perferrem, feram non solum fortiter sed etiam libenter, dummodo meis laboribus vobis populoque Romano dignitas salusque pariatur. Ego sum ille consul, patres conscripti, cui non forum in quo omnis aequitas continetur, non campus consularibus auspiciis consecratus, non curia summum auxilium omnium gentium, non domus commune perfugium, non lectus ad quietem datus, non denique haec sedes honoris, umquam vacua mortis periculo atque insidiis fuit. Ego multa tacui, multa pertuli, multa concessi, multa meo quodam dolore in vestro timore sanavi. Nunc, si hunc exitum

1. *Video,*] See the Introduction on the circumstances under which this oration was delivered.

omnis aequitas] The 'judicia' were held in the Forum. He says that 'aequitas,' all evenness, all justice, is bounded by the limits of the 'forum,' for that is his meaning. The 'forum' is the place, and the 'judicia' are the acts by which the principle of justice is maintained.

non campus] Compare In Cat. i. 5: "Quum proximis comitiis consularibus," &c. The Campus was consecrated by the 'auspicia' which were taken there, before the election commenced. Accordingly it was 'locus Auspicatus.' (Cic. In C. Rabirium, c. 4. Vol. II.)—The words 'sella curulis,' which in many editions follow 'sedes honoris,' are properly considered to be a gloss.

in vestro timore] This is a Latin form of expression which does not agree with ours. We should say: "I found the remedy for many evils, and had all the trouble to bear, though the danger was yours."

consulatus mei dii immortales esse voluerunt, ut vos populumque Romanum ex caede miserrima, conjuges liberosque vestros virginesque Vestales ex acerbissima vexatione, templa atque delubra, hanc pulcherrimam patriam omnium nostrum ex foedissima flamma, totam Italiam ex bello et vastitate eriperem, quaecumque mihi uni proponetur fortuna, subeatur. Etenim, si P. Lentulus suum nomen, inductus a vatibus, fatale ad perniciem rei publicae fore putavit, cur ego non laeter meum consulatum ad salutem populi Romani prope fatalem exstitisse? II. Quare, patres conscripti, consulite vobis, prospicite patriae, conservate vos, conjuges, liberos fortunasque vestras, populi Romani nomen salutemque defendite; mihi parcere ac de me cogitare desinite. Nam primum debeo sperare omnes deos, qui huic urbi praesident, pro eo mihi ac mereor relaturos gratiam esse. Deinde, si quid obtigerit, aequo animo paratoque moriar. Nam neque turpis mors forti viro potest accidere, neque immatura consulari nec misera sapienti. Nec tamen ego sum ille ferreus qui fratris carissimi atque amantissimi praesentis maerore non movear horumque omnium lacrimis, a quibus me circumsessum videtis; neque meam mentem non domum saepe revocat exanimata uxor, et abjecta metu filia et parvulus filius, quem mihi videtur amplecti res publica tamquam obsidem consulatus mei, neque ille,

ad perniciem rei publicae] See In Cat. iii. c. 4. "Lentulum—esse tertium illum Cornelium ad quem regnum hujus urbis atque imperium pervenire esset necesse." 'Fatalis' is 'fixed by the Fata.' Livy (v. 19) has the same expression: "Igitur fatalis dux ad exscidium illius urbis servandaeque patriae M. Furius Camillus dictator dictus."

2. *pro eo—ac mereor*] "I ought to expect that all the gods will reward me according to my deserts." Servius Sulpicius in a letter to Cicero (Ad Fam. iv. 5) says 'pro eo ac debui;' and Cicero (Vol. I. Verr. ii. 3. c. 54), "Tamen pro eo ut temporis difficultas aratorumque penuria tulit." The next thing was to omit the 'ut,' and so we have 'pro ut' or 'prout' (Verr. ii. 2. c. 34).

Nam neque turpis] He refers to this passage in a speech which he made near twenty years afterwards (Phil. ii. c. 46): "Etenim si abhinc annos prope viginti hoc ipso in templo negavi posse mortem immaturam esse consulari, quanto verius nunc negabo seni." Most people will find no difficulty either in the one passage or the other; and yet it has been said that it is a proof of this speech being a forgery, that Cicero, who was now consul, calls himself 'consularis.' This is the kind of argument in which the man delights, who supposes that he is wiser than his neighbour, who does not see the difficulty. But the acuteness of some people is simple stupidity.

fratris] His brother Quintus was 'praetor designatus' in this year. Cicero often mentions Quintus' services during his consulship. Cicero's son Marcus was born in B.C. 64, in the consulship of L. Julius Caesar and C. Marcius Figulus, as he informs Atticus in one of his earliest extant letters: "L. Julio Caesare C. Marcio Figulo consulibus filiolo me auctum scito salva Terentia." His son-in-law, the first husband of his daughter Tullia, was C. Calpurnius Piso, who was 'quaestor' in B.C. 58, and accordingly could not be in the senate house at this time, but he might have been standing at the door. A passage of Tacitus (Ann. ii. 37) has been compared with this: "Hortalus and his four sons stood before the door of the Curia and from that place addressed the Senate." A passage in Pliny's letters is also compared (viii. 14): "Inde honores petituri adsistebant curiae foribus, et consilii publici spectatores ante quam consortes erant."

qui exspectans hujus exitum diei stat in conspectu meo gener. Moveor his rebus omnibus, sed in eam partem ut salvi sint vobiscum omnes, etiamsi me vis aliqua oppresserit, potius quam et illi et nos una rei publicae peste pereamus. Quare, patres conscripti, incumbite ad salutem rei publicae: circumspicite omnes procellas quae impendent, nisi providetis. Non Ti. Gracchus qui iterum tribunus plebis fieri voluit, non C. Gracchus qui agrarios concitare conatus est, non L. Saturninus qui C. Memmium occidit, in discrimen aliquod atque in vestrae severitatis judicium adducitur: tenentur ii qui ad urbis incendium, ad vestram omnium caedem, ad Catilinam accipiendum Romae restiterunt: tenentur litterae, signa, manus, denique unius cujusque confessio; sollicitantur Allobroges; servitia excitantur; Catilina arcessitur: id est initum consilium ut interfectis omnibus nemo ne ad deplorandum quidem populi Romani nomen atque ad lamentandam tanti imperii calamitatem relinquatur. III. Haec omnia indices detulerunt, rei confessi sunt, vos multis jam judiciis judicavistis; primum, quod mihi gratias egistis singularibus verbis, et mea virtute atque diligentia perditorum hominum patefactam esse conjurationem decrevistis; deinde, quod P. Lentulum se abdicare praetura coegistis; tum, quod eum et ceteros de quibus judicastis in custodiam dandos censuistis; maximeque, quod meo nomine supplicationem decrevistis, qui honos togato habitus ante me est nemini; postremo hesterno die praemia legatis Allo-

una rei publicae] "In or by one common ruin with the state;" as Halm explains it.

iterum tribunus] In the early times tribunes were often re-elected, and even in the year after a first tribunate (Liv. ii. 56; iii. 14; v. 29). It appears from Livy (Epit. 59) that some limitation to the re-election of a tribune was established before the time of Ti. Gracchus: "Cum Carbo tr. pl. rogationem tulisset ut eundem tr. pl. quotiens vellet creare liceret, rogationem ejus P. Africanus gravissima oratione dissuasit, in qua dixit Ti. Gracchum jure caesum videri. C. Gracchus contra suasit rogationem, sed Scipio tenuit." (Compare Appian, B. C. i. 14; Cicero, Lael. c. 25.) A Senatus consultum was made B. C. 460 to this effect: "In reliquum magistratus continuari et eosdem tribunos refici judicare Senatum contra rem publicam esse" (Livy, iii. 21). But this Senatus consultum had not the force of a Lex, and it was not observed. We know of no Lex which fixed any limits to the re-election of Magistratus, except that mentioned by Livy (vii. 42): "Item aliis plebiscitis cautum, ne quis eundem magistratum intra decem annos caperet neu duos magistratus uno anno gereret." The attempt of Ti. Gracchus to get himself elected tr. pl. a second time in the year after his first tribunate was illegal. His brother Caius succeeded in the same attempt; but he lost his life during his second tribunate when he was trying to secure his election for the third time in the following year. (Becker, Handbuch, &c. ii. 2. pp. 29. 261.)

L. Saturninus] See In Cat. i. c. 2.

3. *se abdicare—coegistis;*] This is the reading of a great number of MSS. The other reading is 'ut se abdicaret—coegistis.' Both are Latin.—'honos togato:' See In Cat. iii. 10. 'Nemini' at the end of the clause is in its proper place. So Caesar, B. G. ii. 35, puts 'nulli' at the end of the sentence: "quod ante id tempus accidit nulli."

praemia] We do not know what the Legati got. The nation of the Allobroges was not satisfied, for they were soon in arms. The 'legati' may have had what

brogum Titoque Vulturcio dedistis amplissima. Quae sunt omnia ejusmodi ut ii qui in custodiam nominatim dati sunt sine ulla dubitatione a vobis damnati esse videantur.

Sed ego institui referre ad vos, patres conscripti, tamquam integrum, et de facto quid judicetis, et de poena quid censeatis. Illa praedicam quae sunt consulis. Ego magnum in re publica versari furorem et nova quaedam misceri et concitari mala jampridem videbam; sed hanc tantam, tam exitiosam haberi conjurationem a civibus numquam putavi. Nunc quidquid est, quocumque vestrae mentes inclinant atque sententiae, statuendum vobis ante noctem est. Quantum facinus ad vos delatum sit videtis. Huic si paucos putatis affines esse vehementer erratis. Latius opinione disseminatum est hoc malum: manavit non solum per Italiam, verum etiam transcendit Alpes et obscure serpens multas jam provincias occupavit. Id opprimi sustentando ac prolatando nullo pacto potest. Quacumque ratione placet, celeriter vobis vindicandum est. IV. Video adhuc duas esse sententias: unam D. Silani, qui censet eos qui haec delere conati sunt morte esse mulctandos: alteram C. Caesaris, qui mortis poenam removet, ceterorum suppliciorum omnes acerbitates amplectitur. Uterque et pro sua dignitate et pro rerum magnitudine in summa severitate versatur. Alter eos, qui nos omnes, [qui populum Romanum] vita privare conati sunt, qui delere imperium, qui populi Romani nomen exstinguere, punctum temporis frui vita et hoc communi spiritu non putat oportere, atque hoc genus poenae saepe in improbos cives in hac re publica esse usurpatum recordatur. Alter intelligit mortem a diis immor-

the senate promised (In Sallust, Cat. c. 30), a paltry sum of money. It was not unusual to reward witnesses or informers (Pro P. Sulla, c. 18).

referre – integrum,] See In Cat. iii. 3, and the note.—'ante noctem:' no Senatus consultum could be made after nightfall. The rule is stated by Gellius (xiv. 7) on the authority of Varro: "Post haec deinceps dicit senatus consultum ante exortum aut post occasum solem factum ratum non fuisse: opus etiam censorium fecisse existimatos per quos eo tempore senatus consultum factum esset." This was done sometimes, but it was quite irregular (Cic. Ad Fam. i. 2; Phil. iii. c. 10).—'huic – affines:' see Vol. I. Verr. ii. 2. c. 38, 'rei capitalis affinem;' Ter. Haut. i. 3, 3, has it with a genitive; Pro Sext. Rosc. Amerino, c. 7, 'hunc affinem culpae;' Pro Cluentio, c. 45, 'affines ei turpitudini.' Halm asks, as I suppose, what is the difference between the genitive and the dative? There is none at all, if the texts are right.

provincias] We do not know whether this is an oratorical exaggeration or whether Catilina had partizans in any of the Provinciae.

4. *D. Silani,*] His opinion was asked first on the punishment of the conspirators (Sallust, Cat. c. 50): "Primus sententiam rogatus est quod eo tempore consul designatus erat." Appian (B. C. ii. 5) says the same. But Silanus, who had proposed that the conspirators should be put to death, changed his mind after Caesar had spoken, and was in favour of Ti. Nero's proposal, "quod de ea re praesidiis additis referundum censuerat." (Sallust.)

recordatur.] Halm observes that 'recordatur' is not equivalent to 'commemorat,' in which sense 'recordatur' does not occur

talibus non esse supplicii caussa constitutam, sed aut necessitatem naturae aut laborum ac miseriarum quietem [esse]. Itaque eam

in the classical writers. Cicero assumes that Silanus calls to his recollection the fact that Roman citizens have before been summarily punished with death.

Alter intelligit] C. Caesar was 'praetor designatus,' or, as Cicero has it (Ad Att. xii. 21) 'qui tum praetorio loco dixerit.' In this letter to Atticus Cicero finds fault with a letter of Brutus, who was entirely mistaken about the proceedings in the Senate on this day, for he said: "Catonem primum sententiam putat de animadversione dixisse, quam omnes ante dixerant praeter Caesarem." The speech of Caesar is in Sallust (Cat. c. 51), who says, "hujuscemodi verba locutus est." He does not profess to give the very words. Caesar's opinion was this: No punishment was too severe for the conspirators' crimes; but he adds with great sagacity; "most people think of what comes last, and in the case of bad men they forget the crime and speak of the punishment, if it has been rather severe." Caesar objects to the proposal of Silanus that there was no precedent. As to the punishment of death he makes this remark, which Cicero has reported in words different from Sallust's, but the same in substance: "De poena possumus equidem dicere id quod res habet; in luctu atque miseriis mortem aerumnarum requiem, non cruciatum esse; eam cuncta mortalium mala dissolvere; ultra neque curae neque gaudio locum esse." Caesar's remark touches the question of the punishment of death nearer than the vague talk of many persons who discuss it now. In the nature of things, according to Nature, death is not a punishment. Death is no more a punishment than birth. It may however be said that premature death is a punishment; that a man who shortens his life by intemperance is punished for his intemperance. But it is also true that a man may shorten his life by labour in a good thing, by fighting for the Patria, and in many other ways which are not dishonourable, base, or bad. Premature death then is not a punishment. It is also true that according to Nature, according to the order of things, the intemperate man or the bad man, who lives and suffers in consequence of his intemperance and badness, is punished. The punishment of a criminal then is natural, it is in the order of nature, so long as he is allowed to live and is made to suffer. The punishment called the punishment of death is unnatural: it is not a punishment which imitates the order of nature, for death ends all suffering, and this event which must happen some time is only anticipated by the law or by the will of one who has the power to anticipate it. How can that be called a punishment, which begins and ends in the same moment? Unless we reckon the fear of death in the interval between condemnation and execution a part of the punishment. But death ends that too.

The two reasons for the punishment of death are these. It removes the guilty person out of the world, and he can do no more harm. Those who argue against the punishment of death do not judge rightly of this matter; and yet it is the best reason for the punishment of death, if we assume that the criminal code only inflicts this punishment on men who have shown that they are dangerous to society. Such men must be removed, they must be put out of the way, either by death or by eternal imprisonment. There is no other way of dealing with criminals whose crimes have become a habit. The other reason for the punishment of death, and for all punishment is, that it deters from crime or from the act that is forbidden under a penalty. It is certain that all punishment deters to some extent: and the punishment of death among other punishments. But the efficacy of the punishment called death depends greatly on the opinion of another life. He who believes that death will be the beginning of a severer punishment than he can suffer in this life has good reason for fearing it. But in Cicero's time, as he tells us here, and plainer in another place (Pro Cluentio, c. 61), the notion of a state of punishment after death was laughed at: it was an old woman's story. Even the fear of punishment after death is not a fear strong enough to deter altogether from crime. If there is a belief in another life, the fear of punishment after death has some effect. If there is no belief, of course there is no fear of what may come after death; and all that remains is the fear of death itself. How small that fear is in men who are bold enough to commit great crimes, is a fact that is well known. Death is always before our eyes. It may come any day. It is only the uncertainty of the time that makes the difference between death which comes by disease or accident, and death which comes by the will of another. The punishment of death consists in the apprehension of it, and in the certainty of the time when

sapientes numquam inviti, fortes etiam saepe libenter oppetiverunt. Vincula vero et ea sempiterna certe ad singularem poenam nefarii sceleris inventa sunt. Municipiis dispertiri jubet. Habere videtur ista res iniquitatem, si imperare velis; difficultatem, si rogare. Decernatur tamen, si placet. Ego enim suscipiam, et, ut spero, reperiam qui id, quod salutis omnium caussa statueritis, non putent esse suae dignitatis recusare. Adjungit gravem poenam municipiis, si quis eorum vincula ruperit; horribiles custodias circumdat et digna scelere hominum perditorum sancit, ne quis eorum poenam quos condemnat aut per senatum aut per populum levare possit: eripit etiam spem, quae sola hominem in miseriis consolari solet. Bona praeterea publicari jubet; vitam solam relinquit nefariis hominibus, quam si eripuisset, multos uno dolore dolores animi atque corporis et omnes scelerum poenas ademisset. Itaque ut aliqua in vita formido improbis esset posita, apud inferos ejusmodi quaedam illi antiqui supplicia impiis constituta esse voluerunt; quod videlicet intelligebant his remotis non esse mortem ipsam pertimescendam.

V. Nunc, patres conscripti, ego mea video quid intersit. Si eritis secuti sententiam C. Caesaris, quoniam hanc is in re publica viam quae popularis habetur secutus est, fortasse minus erunt hoc auctore et cognitore hujusce sententiae mihi populares impetus

it will come. But this fear and this pain are removed by death, which ends the punishment; and death is therefore no punishment. It is the feeble and the cowardly to whom the apprehension of death gives pain: and to them only is the fear a punishment. The wise are always ready to meet it, as Cicero says; and the brave are often glad.

The true conclusion is that death is not a punishment; but that it terminates all punishment, whether the punishment consist in bodily and mental pain, or in mental pain only. The penalty of death does not imitate the order of Nature, in which death is no punishment. It deviates from the order of Nature, in which punishment consists in living and suffering. When then death is inflicted as a punishment, it is inflicted in gross error. When it is inflicted in order to remove from the world those who are troublesome, it is inflicted with a clear purpose. The only part of the penalty of death, as I have said, is the mental suffering which precedes the death; and if punishment is the object, this period should be lengthened and not shortened. It should be extended to the unknown time when death will come to relieve the sufferer from his troubles and to give him the rest which life does not.

There are other reasons why some people do not approve of the penalty of death; but they are reasons with which we have nothing to do here.

Municipiis] Caesar says in Sallust: "Sed ita censeo: Publicandas eorum pecunias, ipsos in vinculis habendos per municipia quae maxume opibus valent; neu quis de iis postea ad senatum referat neve cum populo agat; qui aliter fecerit, senatum existumare eum contra rem publicam et salutem omnium facturum."

et digna—sancit,] Halm has it, "et dignas scelere hominum perditorum; sancit ne quis."—'his remotis:' so the MSS. have; but Halm writes 'iis,' and so spoils it.

5. *auctore—cognitore*] See Vol. I. Verr. ii. 5. c. 22, and Divin. c. 4. Caesar was the 'auctor,' the originator of this proposal, and he would be its defender (cognitor); he would maintain the decision of the senate which was founded on his proposal;

pertimescendi; sin illam alteram, nescio an amplius mihi negotii contrahatur. Sed tamen meorum periculorum rationes utilitas rei publicae vincat. Habemus enim a C. Caesare, sicut ipsius dignitas et majorum ejus amplitudo postulabat, sententiam tamquam obsidem perpetuae in rem publicam voluntatis. Intellectum est quid interesset inter levitatem contionatorum et animum vere popularem, saluti populi consulentem. Video de istis qui se populares haberi volunt abesse non neminem, ne de capite videlicet civium Romanorum sententiam ferat. Is et nudiustertius in custodiam cives Romanos dedit et supplicationem mihi decrevit et indices hesterno die maximis praemiis affecit. Jam hoc nemini dubium est, qui reo custodiam, quaesitori gratulationem, indici praemium decrevit, quid de tota re et caussa judicarit. At vero C. Caesar intelligit legem Semproniam esse de civibus Romanis constitutam; qui autem rei

he would represent the senate and defend it as a 'cognitor' acts for a man in a civil case in his absence.

nescio an amplius] "I am inclined to think that more trouble will be stored up for me." This passage shows clearly that 'nescio an' is affirmative, or expresses the inclination of the speaker's opinion towards the affirmative.

non neminem,] Somebody, he does not say who. The scholiasta Gronovianus tells us: 'Quintum Metellum dicit.' He means Q. Metellus Nepos, who was tribunus pl. in B.C. 62.—'Is et nudiustertius:' in Orelli's second edition Halm has "sententiam ferat; sed nudiustertius;" on the authority of one MS.

gratulationem,] This word represents 'supplicationem:' it means the honour that was done to him by declaring the 'supplicatio.' Cicero of course was not properly a 'quaesitor' (see Vol. I. Verr. Act. 1. c. 9) on the occasion, nor was the affair before the senate properly a Judicium; but the application of both these words to the case is justified by the likeness of Cicero to a 'quaesitor,' and by the likeness of the senate to a 'judicium.'—'decrevit:' 'decrerit,' Halm.

legem Semproniam] Caesar had spoken of the 'Lex Porcia aliaeque' (Sallust, Cat. c. 51). Cicero says: "But in fact C. Caesar knows that the Lex Sempronia was intended to apply to citizens; and that if a man has been declared an enemy of the state, he cannot be a citizen." Cicero adds that C. Gracchus himself, who carried the Lex Sempronia, was put to death as an enemy to the state, and by the sentence of the people. The story of the death of C. Gracchus is told by Plutarch (C. Gracchus, c. 16, 17). The people did not protect him when the Senate had empowered the consul Opimius "to save the state in such way as he could, and to put down the tyrants" (Plutarch, C. Gracchus, c. 14). Caius fled before his pursuers, and there was no man to help him. "He just escaped into a sacred grove of the Furies, and there he fell by the hand of Philocrates, who killed himself on the body of his master" (Plutarch). Drumann, in his tedious way (Röm. Gesch. v. p. 521), explains how Cicero could venture to pervert the story. If we knew no more of the matter than Cicero tells us here, we should say that the Sempronia Lex (ne de capite civium Romanorum injussu populi judicaretur) only applied to citizens; that a man who was declared an enemy to the state could not claim the protection of the Lex; and that the man who proposed the Lex was punished by the Populus (jussu populi); from which we ought to conclude that there was a formal condemnation. But this was not so. Yet this misstatement of Cicero is no ground for doubting the genuineness of the oration. If we make errors in fact or misstatements of facts an argument against the genuineness of Cicero's works, we must condemn a great many passages. Nobody who has read the writer without prejudice, and with a simple desire to understand him, finds any difficulty in understanding why under different circumstances he gives a different version of a story. (See Vol. II. In Rullum, ii. c. 5, note on the Gracchi.) Two critics have proposed to alter 'jussu' in this passage into 'injussu;' and Madvig has retained this very absurd alteration even in the third edition of his Select Orations, as Halm says.

publicae sit hostis, eum civem nullo modo esse posse; denique ipsum latorem legis Semproniae jussu populi poenas rei publicae dependisse. Idem ipsum Lentulum, largitorem et prodigum, non putat, quum de pernicie populi Romani, exitio hujus urbis tam acerbe tamque crudeliter cogitarit, etiam appellari posse popularem. Itaque homo mitissimus atque lenissimus non dubitat P. Lentulum aeternis tenebris vinculisque mandare, et sancit in posterum, ne quis hujus supplicio levando se jactare et in perniciem populi Romani posthac popularis esse possit: adjungit etiam publicationem bonorum, ut omnes animi cruciatus et corporis etiam egestas ac mendicitas consequatur.

VI. Quamobrem, sive hoc statueritis, dederitis mihi comitem ad contionem, populo carum atque jucundum; sive Silani sententiam sequi malueritis, facile me atque vos [a] crudelitatis vituperatione defendetis; atque obtinebo eam multo leniorem fuisse. Quamquam, patres conscripti, quae potest esse in tanti sceleris immanitate punienda crudelitas? Ego enim de meo sensu judico. Nam ita mihi salva re publica vobiscum perfrui liceat, ut ego quod in hac caussa vehementior sum non atrocitate animi moveor—quis enim est me mitior?—sed singulari quadam humanitate et misericordia. Videor enim mihi videre hanc urbem, lucem orbis terrarum atque arcem omnium gentium, subito uno incendio concidentem: cerno animo sepulta in patria miseros atque insepultos acervos civium: versatur mihi ante oculos aspectus Cethegi et furor in vestra caede bacchantis. Quum vero mihi proposui regnantem Lentulum, sicut ipse ex fatis se sperasse confessus est, purpuratum esse huic Gabinium, cum exercitu venisse Catilinam, tum lamentationem matrumfamilias, tum fugam virginum atque puerorum ac vexationem [virginum] Vestalium perhorresco; et quia mihi vehementer haec

sancit in posterum,] The 'sanctio' or penalty contained in Caesar's proposal is expressed by the words 'ne quis,' &c. The word 'sancire' is explained Vol. I. Verr. ii. 1. c. 42.—'publicationem:' Caesar proposed that all the property of the conspirators should become public; but when the majority voted for the capital punishment, and would have added confiscation to it, Caesar would not consent that they should reject the mild part of his proposal and take the severest part (Plutarch, Cicero, c. 21).

6. *defendetis;*] "Vos crudelitatis vituperatione populus Romanus exsolvet," Halm, following Madvig's emendation. The emendation is by no means certain. The text as it stands above is probably corrupt.

sepulta in patria] The other reading, 'sepultam patriam,' is a variation or corruption which is easily explained, if we assume the reading in the text to be the genuine words; and the antithesis 'sepulta in patria' and 'insepultos acervos' is thus more complete. Halm compares Tacitus (Hist. iii. 35), 'sepultae urbis ruinae.'

huic Gabinium,] The other reading is 'hunc,' for which there is the authority of more MSS.; but Halm has done right in preferring 'huic,' which means that Gabinius is a 'purpuratus' to Lentulus, who is supposed to be a king. A 'purpuratus' is a man dressed in purple, a great personage about a king: "Sopatrum ex purpuratis et propinquis regis esse." Livy, 30. c. 42.

videntur misera atque miseranda, idcirco in eos qui ea perficere voluerunt me severum vehementemque praebeo. Etenim quaero, si quis paterfamilias, liberis suis a servo interfectis, uxore occisa, incensa domo, supplicium de servis non quam acerbissimum sumpserit, utrum is clemens ac misericors an inhumanissimus et crudelissimus esse videatur? Mihi vero importunus ac ferreus qui non dolore ac cruciatu nocentis suum dolorem cruciatumque lenierit. Sic nos in his hominibus, qui nos, qui conjuges, qui liberos nostros trucidare voluerunt, qui singulas unius cujusque nostrum domos et hoc universum rei publicae domicilium delere conati sunt, qui id egerunt ut gentem Allobrogum in vestigiis hujus urbis atque in cinere deflagrati imperii collocarent, si vehementissimi fuerimus, misericordes habebimur; sin remissiores esse voluerimus, summae nobis crudelitatis in patriae civiumque pernicie fama subeunda est. Nisi vero cuipiam L. Caesar, vir fortissimus et amantissimus rei publicae, crudelior nudiustertius visus est, quum sororis suae, feminae lectissimae, virum, praesentem et audientem, vita privandum esse dixit, quum avum suum jussu consulis interfectum filiumque

si quis] Such things happened sometimes. A master fell by the hand of his slave, or in his absence the house was burnt to the ground and the man's family massacred. The man's feeling of his wrong, his love to his family, is measured by the vengeance which he takes for the crime. By punishing without mercy he sustains the character of a mild and merciful man, and soothes his anguish by the pain inflicted on those who have robbed him of all. If one slave killed his master or committed the crime which Cicero mentions, all the slaves in the house were liable to be tortured and punished. "In such a case," says Tacitus (Ann. xiv. 42), "it was an old custom for all the slaves who had been under the same roof to be led to punishment." This custom was confirmed by a Senatus consultum under Augustus, and there was another to the same effect in Nero's time, A.D. 57: "Factum et Senatus consultum ultioni juxta et securitati: Ut si quis a suis servis interfectus esset, ii quoque qui testamento manumissi sub eodem tecto mansissent inter servos supplicia penderent" (Tacit. Ann. xiii. 32). When Marcellus was assassinated before his tent at Athens, the slaves except a few ran away through fear (Cicero, Ad Fam. iv. 12). — 'de servis:' 'de servo,' Halm.

L. Caesar,] He was consul B.C. 64. His sister Julia married M. Antonius Creticus, one of the two sons of M. Antonius the orator; and she had by him three sons, one of whom was M. Antonius, afterwards one of the Triumvirate with C. Octavius and Lepidus. After the death of Creticus, Julia married the conspirator P. Lentulus Sura. See Cicero, Phil. ii. c. 6.

avum suum] L. Caesar was the son of L. Julius Caesar, consul B.C. 90, and of Fulvia, the daughter of M. Fulvius Flaccus, consul B.C. 125, and the conqueror of the Ligurian Salyes. Flaccus was leagued with C. Gracchus, and he and his two sons lost their lives at the same time as Gracchus. Cicero speaks here of a son who was sent by his father on a mission, was imprisoned and put to death. It is hard to understand why L. Caesar should speak of this cruel execution of the youth. He is not represented as saying that he was justly put to death; but as he speaks of the death of the father, which he certainly did not disapprove, for he proposed that Lentulus should be treated the same way, and as he mentions the son and the father together, and just in the same terms, the true conclusion is that he meant to say that they both deserved the same fate. Plutarch's story is, though it is not very clearly told, that the father and the elder son perished together, and we may infer that both of them had taken up arms (Plutarch, C. Gracchus, c. 16). Again Plutarch says (c. 17) of the enemies of Gracchus: "But their conduct was most

ejus impuberem, legatum a patre missum, in carcere necatum esse dixit. Quorum quod simile factum, quod initum delendae rei publicae consilium? Largitionis voluntas tum in re publica versata est et partium quaedam contentio. Atque illo tempore hujus avus Lentuli, vir clarissimus, armatus Gracchum est persecutus: ille etiam grave tum vulnus accepit, ne quid de summa re publica minueretur: hic ad evertenda rei publicae fundamenta Gallos arcessit, servitia concitat, Catilinam vocat, attribuit nos trucidandos Cethego, ceteros cives interficiendos Gabinio, urbem inflammandam Cassio, totam Italiam vastandam diripiendamque Catilinae. Vereamini, censeo, ne in hoc scelere tam immani ac nefando nimis aliquid severe statuisse videamini: multo magis est verendum ne remissione poenae crudeles in patriam quam ne severitate animadversionis nimis vehementes in acerbissimos hostes fuisse videamini.

VII. Sed ea quae exaudio, patres conscripti, dissimulare non possum. Jaciuntur enim voces quae perveniunt ad aures meas eorum qui vereri videntur, ut habeam satis praesidii ad ea quae vos

cruel to the younger son of Fulvius, who had neither raised up his hand against them nor been among the combatants; for he was seized before the battle, when he came to treat of terms, and was put to death after the battle." Cicero only mentions one son here, and he speaks of the son who was cruelly murdered. In another oration (Phil. viii. c. 4) he says, "P. Lentulum, principem senatus, complures alios summos viros, qui cum L. Opimio consule armati Gracchum in Aventinum persecuti sunt, quo in praelio Lentulus grave vulnus accepit, interfectus est Gracchus et M. Fulvius consularis ejusque duo adolescentuli filii." Here two sons are killed in fight, and Gracchus killed; and yet Gracchus killed himself. Again he speaks in another place somewhat vaguely of this affair (In Cat. i. 2). Halm has a way of removing the difficulty, which is not to my taste, but I state it that others may judge. He is inclined to assume that Caesar only said, "avum filiumque jussu consulis interfectos esse," and that Cicero confounded the elder son who fell with his father in the fight with the younger son whose fate was better known.

Largitionis voluntas] The Gracchi had no designs like Catilina and his men. They merely wished to give the common folks something at the expense of the state; corn for nothing or at a low price; and land, which they would have taken from the possessors. Vol. II. In Rullum.

hujus avus Lentuli,] In Cat. iii. 5.—'minueretur:' 'diminueretur,' Halm.

Vereamini,] 'Veremini,' which is in some editions, is a corruption introduced by Ernesti.—'videamini;' there is better authority for this than for the reading in the common editions, 'videamur.' Halm properly remarks that we should not take offence at the repetition of the same termination, 'vereamini—videamini,' which was probably used purposely, as in this oration and in this chapter, 'dixit—dixit;' in iii. c. 2, 'provideretis—videretis;' and in many other examples. For want of attending to this the critics have taken in hand the mending of many passages, which the authors evidently intended to be as they are.

7. *exaudio,*] 'I hear clearly,' says Halm; but the context shows that this is not the meaning. He refers to the passage in the oration Pro Sulla, c. 10, which also proves his explanation to be wrong. There is a passage quoted by Forcellini, which is very clear (Cic. Ad Att. xiii. 48): "Heri nescio quid in strepitu videor exaudisse, quum diceres te in Tusculanum venturum." Compare Livy, ii. 27; and Caesar, B. G. vi. 39. (See In Cat. i. c. 8, note.) There are other passages from which the meaning of 'exaudire' appears: Caesar, B. G. v. 30; vii. 47; and Cicero, De Legg. i. 7.

statueritis hodierno die transigunda. Omnia et provisa et parata et constituta sunt, patres conscripti, quum mea summa cura atque diligentia, tum multo etiam majore populi Romani ad summum imperium retinendum et ad communes fortunas conservandas voluntate. Omnes adsunt omnium ordinum homines, omnium denique aetatum: plenum est forum, plena templa circum forum, pleni omnes aditus hujus templi ac loci. Caussa est enim post urbem conditam haec inventa sola in qua omnes sentirent unum atque idem, praeter eos qui quum sibi viderent esse pereundum cum omnibus potius quam soli perire voluerunt. Hosce ego homines excipio et secerno libenter; neque enim in improborum civium, sed in acerbissimorum hostium numero habendos puto. Ceteri vero, dii immortales, qua frequentia, quo studio, qua virtute ad communem salutem dignitatemque consentiunt. Quid ego hic equites Romanos commemorem? qui vobis ita summam ordinis consiliique concedunt ut vobiscum de amore rei publicae certent; quos ex multorum annorum dissensione hujus ordinis ad societatem concordiamque revocatos hodiernus dies vobiscum atque haec caussa conjungit; quam si conjunctionem in consulatu confirmatam meo perpetuam in re publica tenuerimus, confirmo vobis nullum posthac malum civile ac domesticum ad ullam rei publicae partem esse venturum. Pari studio defendendae rei publicae convenisse video tribunos aerarios, fortissimos viros; scribas item universos, quos quum casu hic dies ad aerarium frequentasset, video ab exspectatione sortis ad salutem communem esse conversos. Omnis ingenuorum adest multitudo, etiam tenuissimo-

ita summam—ut] This means: They concede to you the highest rank and the first place in deliberation, but they are still your rivals in affection to the state. 'Ita —ut' expresses a great deal, and it is sometimes difficult to find a form of expression which shall render it truly. The matter of the Judicia was a cause of quarrel from B.C. 122, when they were taken from the Senators and given to the Equites, to B.C. 70, when the Lex Aurelia made the Judices eligible from the Senators, the Equites, and the Tribuni Aerarii (Judicia, Vol. I.). Cicero represents the danger of the state as having completed the union among the orders.

tribunos aerarios,] See Vol. II. Pro C. Rabirio, c. 9.—'scribas:' see Vol. I. Verr. ii. 3. c. 79, and the note.

casu—ad aerarium] "The accident was this, that the Nonae Decembres, on which day the Quaestors entered on their office (Becker's Handb. der röm. Antiq. ii. 2. s. 344), and had their Provincia quaestoria determined by lot, was also for the Scribae the 'dies sortitionis,' which took place in the temple of Saturn, the 'aerarium populi Romani,' which was near the temple of Concordia. This correct explanation was first given by Theod. Mommsen, Commentatio ad legem de scribis et viatoribus, Kiel, 1843" (Halm). Klotz has a long note on this passage. He explains the expression "quos quum casu hic dies ad aerarium frequentasset," about which a difficulty has been made by comparing with it another passage of Cicero (Pro Domo, c. 33): "Quem tu tamen populum nisi tabernis clausis frequentare non poteras;" and he correctly explains it to mean 'frequentem reddere.' So in this passage it means 'frequentes reddidisset.' Cicero (De Off. ii. 4): "Urbes vero sine hominum coetu non potuissent nec aedificari nec frequentari:" they could not have been peopled.

ingenuorum] The 'ingenui' are those who are born free (Gaius, i. 11). Mommsen,

rum. Quis est enim cui non haec templa, aspectus urbis, possessio libertatis, lux denique haec ipsa et hoc commune patriae solum quum sit carum, tum vero dulce atque jucundum? VIII. Operae pretium est, patres conscripti, libertinorum hominum studia cognoscere, qui sua virtute fortunam hujus civitatis consecuti hanc vere suam patriam esse judicant; quam quidam hic nati et summo loco nati non patriam suam sed urbem hostium esse judicaverunt. Sed quid ego hosce homines ordinesque commemoro, quos privatae fortunae, quos communis res publica, quos denique libertas ea quae dulcissima est ad salutem patriae defendendam excitavit? Servus est nemo, qui modo tolerabili conditione sit servitutis, qui non audaciam civium perhorrescat; qui non haec stare cupiat; qui non quantum audet et quantum potest [tantum] conferat ad [communem] salutem voluntatis. Quare si quem vestrum forte commovet hoc quod auditum est, lenonem quendam Lentuli concursare circum

quoted by Halm, proves that the Scribae of the Quaestores and Aediles were nearly exclusively 'ingenui' (De apparitoribus magistratuum Romanorum, Neues Rhein. Mus. vi. s. 1 ff). This explanation is supposed to remove Cicero's inconsistency in speaking of the 'scribae,' who were generally 'libertini' or manumitted slaves, then mentioning 'ingenui,' and then again speaking of the class of 'libertini.' But I do not think that there is any inconsistency in this. After speaking of the 'scribae,' who formed an 'ordo,' he speaks of 'libertini homines' generally, and not of those 'libertini' who belonged to the 'ordo' of the 'scribae.' If some of the 'scribae' were 'ingenui,' it is certain that all were not. The fact of the 'scribae' of the Quaestores and Aediles being 'ingenui' does not, I think, remove the objection that is made, for all who are 'scribae,' 'ingenui' or not, are mentioned before the 'ingenui.' It seems a very simple matter. He enumerates the 'scribae' as an 'ordo;' and all members of this 'ordo' were thus distinguished both from 'ingenui' and 'libertini' who did not belong to it.

8. *quantum potest—voluntatis.*] This is the connexion of the words. Such words as 'quantum' with 'posse' and 'velle' and some others are often thus placed with respect to the genitive.

lenonem—Lentuli] Cicero is never wanting in an abusive word. (See Vol. II. Pro. Rosc. Com. c. 7, note on 'leno.') He represents this dirty fellow as running about among the artizans and little shopkeepers, and trying to stir them up to insurrection by money. Sallust (Cat. c. 50) says: "dum haec in senatu aguntur, liberti et pauci ex clientibus Lentuli divorsis itineribus opifices atque servitia in vicis ad eum eripiendum solicitabant;" and Appian (B. C. ii. 5) says the same. (The word 'concursare' is explained Vol. I. Verr. ii. 5. c. 31.)—'sellae:' 'sella,' a diminutive of 'sedes,' means here the seat of the man who exercises some sedentary art, a cobbler, a tailor. To such a man his little seat, or bench, or stand where he exercises his craft (opus) and makes his money is every thing: it is his all.—'tabernis:' a 'taberna' is thus defined by Ulpian (Dig. 50. 16. 183): "Tabernae appellatio declarat omne utile ad habitandum aedificium, nempe ex eo, quod tabulis clauditur." He supposes that it contains the same root as 'tabula;' which may be true. The word generally means any place where a man practises his art or sells things, wine, books, or any thing else. Many of these were probably small places chiefly constructed of wood, and not used as dwelling houses; or they might serve as a lodging for the little shopkeeper, who had his snug bed (lectulus) there. At night they were secured by a chain,

> "Postquam omnis ubique
> Fixa catenatae siluit compago tabernae."
> (Juvenal, iii. 303.)

A 'taberna instructa' is one "quae et rebus et hominibus ad negotiationem paratis constat" (Ulpian, Dig. 50. 16. 185; Pro Cluentio, c. 63). The 'instrumentum' is the fittings as we call them of the shop, and all that is in it for the purpose of the trade. Cicero has well described the character of the shopkeeper, the man whose existence

tabernas, pretio sperare sollicitari posse animos egentium atque imperitorum, est id quidem coeptum atque tentatum, sed nulli sunt inventi tam aut fortuna miseri aut voluntate perditi, qui non ipsum illum sellae atque operis et quaestus quotidiani locum, qui non cubile ac lectulum suum, qui denique non cursum hunc otiosum vitae suae salvum esse velint. Multo vero maxima pars eorum qui in tabernis sunt, immo vero, id enim potius est dicendum, genus hoc universum amantissimum est otii. Etenim omne instrumentum, omnis opera ac quaestus frequentia civium sustentatur, alitur otio; quorum si quaestus occlusis tabernis minui solet, quid tandem incensis futurum fuit?

IX. Quae quum ita sint, patres conscripti, vobis populi Romani praesidia non desunt: vos ne populo Romano deesse videamini providete. Habetis consulem ex plurimis periculis et insidiis atque ex media morte non ad vitam suam sed ad salutem vestram reservatum: omnes ordines ad conservandam rem publicam mente, voluntate, studio, virtute, voce consentiunt: obsessa facibus et telis impiae conjurationis vobis supplex manus tendit patria communis: vobis se, vobis vitam omnium civium, vobis arcem et Capitolium, vobis aras Penatium, vobis illum ignem Vestae perpetuum ac sempiternum, vobis omnia templa deorum atque delubra, vobis muros atque urbis tecta commendat. Praeterea de vestra vita, de conjugum vestrarum atque liberorum anima, de fortunis omnium, de sedibus, de focis vestris hodierno die vobis judicandum est. Habetis ducem, memorem vestri, oblitum sui, quae non semper facultas datur; habetis omnes ordines, omnes homines, universum populum Romanum, id quod in civili caussa hodierno die primum videmus, unum atque idem sentientem. Cogitate quantis laboribus fundatum im-

depends on tranquillity and the regular course of things; who dreads a disturbance in the streets which compels him to shut up his shop and shut out his customers. This is the class in all countries which is the friend of any government that keeps order, which cares for only one thing, for money; and is willing to have quiet at any cost, even at the price of liberty.

futurum fuit?] In place of 'fuit' there is a reading 'fiet;' and 'sit,' and 'est,' for which there is the authority of many MSS. But 'fuit' is the true reading.

9. *reservatum:*] One MS. quoted by Halm has 'servatum,' which I should take, if there were more authority for it. See Vol. I. Verr. ii. 5. c. 30.—'studio, virtute:' These words are omitted in twelve MSS., but they are found in many MSS. They do not seem to me so overabundant that we must for that reason get rid of them, as Halm does.

illum ignem] 'Illum' is emphatic, "the fire of Vesta, never failing and eternal.' There is no reason for explaining 'illum' by supposing that the orator pointed to the temple of Vesta in the Forum. Cicero often alludes to the sacred fire which burned continually, the symbol of the duration of Rome. He says (Vol. II. Pro M. Fonteio, c. 21): "Prospicite ne ille ignis aeternus, nocturnis Fonteiae laboribus vigiliisque servatus, sacerdotis vestrae lacrimis exstinctus esse dicatur." Comp. 'ipsum illum,' c. 8.

Cogitate quantis] This sentence is an example of the force and precision in the

perium, quanta virtute stabilitam libertatem, quanta deorum benignitate auctas exaggeratasque fortunas una nox paene delerit. Id ne umquam posthac non modo confici sed ne cogitari quidem possit a civibus hodierno die providendum est. Atque haec non, ut vos qui mihi studio paene praecurritis excitarem locutus sum, sed ut mea vox quae debet esse in re publica princeps officio functa consulari videretur.

X. Nunc antequam ad sententiam redeo, de me pauca dicam. Ego, quanta manus est conjuratorum, quam videtis esse permagnam, tantam me inimicorum multitudinem suscepisse video; sed eam esse turpem judico et infirmam, contemptam et abjectam. Quod si aliquando alicujus furore et scelere concitata manus ista plus valuerit quam vestra ac rei publicae dignitas, me tamen meorum factorum atque consiliorum numquam, patres conscripti, poenitebit. Etenim mors quam illi mihi fortasse minitantur omnibus est parata: vitae tantam laudem, quanta vos me vestris decretis honestastis, nemo est assecutus. Ceteris enim semper bene gestae, mihi uni conservatae rei publicae gratulationem decrevistis. Sit Scipio ille clarus, cujus consilio atque virtute Hannibal in Africam redire atque ex Italia decedere coactus est; ornetur alter eximia laude Africanus, qui duas urbes huic imperio infestissimas, Karthaginem Numantiamque, delevit; habeatur vir egregius Paullus ille, cujus currum rex potentissimus quondam et nobilissimus Perses honestavit; sit [in] aeterna gloria Marius, qui bis Italiam obsidione et metu servitutis liberavit; anteponatur omnibus Pompeius, cujus res gestae atque virtutes iisdem quibus solis cursus regionibus ac terminis continentur: erit profecto inter horum laudes aliquid loci nostrae gloriae, nisi forte majus est patefacere nobis provincias

Latin language, which are produced by the use of the passive participle. We can render such a sentence in two ways: "Consider by what toils this empire was founded —which a single night nearly destroyed:" or "Consider that a single night almost destroyed an empire founded by such great labour." But both forms are inferior to the Latin in vigour and beauty. He says of this 'una nox' in the oration Pro Flacco (c. 40): "O nox illa quae paene aeternas huic urbi tenebras attulisti, quum Galli ad bellum, Catilina ad urbem, conjurati ad ferrum et flammam vocabantur."

10. *ad sententiam*] He returns to it in c. 11: "Quae quum ita sint—de summa salute—decernite diligenter, ut instituistis, ac fortiter."—'gratulationem:' he has said this before (In Cat. iii. 6). 'Gratulatio' is explained in the note (In Cat. iv. 5).

bene gestae,] Halm has "bene gesta, mihi uni conservata re publica;" but a great many MSS. have the genitive. The ablative is of course free from all objection, and it occurs in the same kind of expression (In Cat. iii. 6); but in that passage it could not be in the genitive.

Paullus] Many MSS. have 'L. Paullus,' but the 'praenomen' is properly omitted here, as in the name of Scipio who conquered Hannibal, and the other Scipio, whom he names Africanus. Such great men need no designation beyond one name. He means the conqueror of Macedonia.—'in aeterna:' Halm omits 'in.'—'terminis continentur:' See In Cat. iii. c. 11.

quo exire possimus quam curare, ut etiam illi qui absunt habeant quo victores revertantur. Quamquam est uno loco conditio melior externae victoriae quam domesticae, quod hostes alienigenae aut oppressi serviunt aut recepti beneficio se obligatos putant: qui autem ex numero civium dementia aliqua depravati hostes patriae semel esse coeperunt, eos, quum a pernicie rei publicae reppuleris, nec vi coercere nec beneficio placare possis. Quare mihi cum perditis civibus aeternum bellum susceptum esse video: id ego vestro bonorumque omnium auxilio, memoriaque tantorum periculorum, quae non modo in hoc populo qui servatus est, sed etiam in omnium gentium sermonibus ac mentibus semper haerebit, a me atque a meis facile propulsari posse confido: neque ulla profecto tanta vis reperietur quae conjunctionem vestram equitumque Romanorum et

quo victores revertantur.] "Mihi quidem certe vir abundans bellicis laudibus Cn. Pompeius multis audientibus hoc tribuit, ut diceret frustra se triumphum tertium deportaturum fuisse, nisi meo in rem publicam beneficio ubi triumpharet esset habiturus" (Cic. De Off. i. 23). Cicero said this which he says in the text at the time of the conspirators being punished. Pompeius must have said it afterwards, for he was in the east at this time. The compliment came from Cicero himself, and Pompeius adopted his words; or what is more likely, Cicero in his old age put them in the mouth of Pompeius. He speaks of this again (Phil. ii. 5): "Maxime vero consulatum meum Cn. Pompeius, qui ut me primum decedens ex Syria vidit complexus et gratulans meo beneficio patriam se visurum esse dixit." Pompeius might say this; and we easily see how Cicero would turn what he said into his own rhetorical phrase when writing to his son Marcus, to whom the treatise De Officiis is addressed.

recepti] 'recepti *in amicitiam*,' Halm.—'reppuleris:' Halm cites only two MSS. which have this form. There is a reading 'repuleris,' and some other varieties.—'aeternum bellum:' he says the same thing again (Pro Sulla, c. 9). He knew that he could never make friends of the men whose evil designs he had frustrated; that neither pardon nor any favour could conquer their malignity. There are tempers which one can never subdue by mercy, by kindness, or by forgiveness. To be defeated in their designs is a thing which they never forget. A prudent man therefore reckons on the eternal enmity of those whose wicked designs he has thwarted, and he thinks not of peace with them, but war to the end of his days.

id ego vestro] There is a reading 'quod ego vestro.'

conjunctionem] Two years later this union of the two orders was in danger of being destroyed, as Cicero says in two letters to Atticus (i. 17 and 18): "Credo enim te audisse nostros equites paene a senatu esse disjunctos." One cause of the danger was the promulgation of a Senatus consultum about trying those who had received bribes as 'judices.' The other cause that Cicero mentions was the greediness of the Equites who farmed the revenues of Asia. They had given too much for the farm, and they asked the Senate to cancel the lease. Cicero helped them and the Equites got what they asked for: "summum erat periculum ne si nihil impetrassent plane alienarentur a senatu." In the next letter (18) he says: "Facto S. C. de ambitu, de judiciis, nulla lex perlata, exagitatus senatus, alienati equites Romani. Sic ille annus duo firmamenta rei publicae per me unum constituta evertit, nam et senatus auctoritatem abjecit et ordinum concordiam disjunxit." In his long letter to his brother Quintus (Ad Q. Fr. i. 1. c. 11), Cicero shows what importance he attached to keeping on good terms with the money interest in the state, the 'ordo' of the Publicani, as he calls them. He knew that they were an unprincipled greedy set of men, but he could not afford to quarrel with them. He says: "Atque huic tuae voluntati ac diligentiae difficultatem magnam afferunt publicani, quibus si adversamur, ordinem de nobis optime meritum et per nos cum re publica conjunctum et a nobis et a re publica disjungemus. Sin autem omnibus in

tantam conspirationem bonorum omnium confringere et labefactare possit.

rebus obsequemur, funditus eos perire patiemur (the provinciales) quorum non modo saluti sed etiam commodis consulere debemus. Haec est una, si vere cogitare volumus, in toto imperio tuo difficultas."

The power of the money-men in the Roman state at this time is a lesson and a warning. The poets and the satirists represent the Roman of the later republican and of the early imperial period as greedy after money, and either a miser or a prodigal voluptuary. This is not an imaginary picture. The vice of greediness was deep seated in the Italians of that day. In every country into which the Roman arms had penetrated, and even where they had not, the 'mercator' came with his wares to drive a profitable bargain with the natives. He followed the Roman camp to purchase the slaves taken in war; and sometimes he lost his life while he was looking after money. In all the provinces which were settled peaceably the negotiator fixed himself: he was the banker, the money-changer, the money-lender, the merchant who bought up corn and wool. He placed his own capital and the capital of those who would trust it to him. The patriot Brutus, or some good friend of his, placed his money out for him at exorbitant interest. The provinces swarmed with these money-making men. Closely allied to the 'negotiatores' were the Publicani, Roman equites who formed companies or associations for farming of the taxes in the provinces. They advanced money for the use of the government; and they and the 'negotiatores' had in their hands the whole money market. Public credit depended on their operations and the remittances from the provinces, for Rome and Italy consumed what the provinces produced. The Senate, which had the administration of affairs, could not carry on the government without the aid of those who had the money; and the governor of a province, who wished to have a quiet time, and escape all danger of prosecution after he left the province, must wink at the oppression of the farmers-general; and if he would not join them in the plunder, he must at least not disturb them in their rapacious exactions.

Cicero in this and other passages describes precisely the condition of modern states, where the great masses of money accumulated in a few hands make an order in the state; an order which has no object except the profitable employment of capital and the increase of its own wealth; an order which cares neither for liberty, nor honour, nor knowledge, except so far as knowledge may increase riches; an order which regulates peace and war, and will lend money even to the enemies of their country if profit can be made by the loan. The rich who are not governed by the love of gain are few; and the exceptions are the more honourable as the love of money is the strongest of human passions. When this passion is well fixed, it destroys all others, and every noble feeling; love, tenderness, mercy, humanity are swallowed up in this bottomless abyss. Selfishness, hardness of heart, pride, and cruelty sit by the side of the love of gain, always ready to obey the orders of the infernal spirit enthroned within the wall of flesh. The wise man said well that the love of money is the root of all evil. The parable of the sower (Matthew, xiii.; Luke, viii.) who went forth to sow contains all that can be said about the love of money. It is rich in instruction, as rich and abundant as the commentaries on it are meagre and barren. The commentators have not dared to handle it. A man will not touch that which burns his fingers.

The great advantage that society derives from the accumulation of capital for the production of more wealth is so clear, that the economists need not try to prove it, and they may spare their laudations on a matter that no man who opens his eyes can deny. The capitalist adds to his wealth by the prudent employment of his capital, and others derive advantage from it too. But as it is in all things, what we call good and what we call bad are mingled together; and though the accumulation of wealth in modern times has created a prodigious power, which is felt all over the world, it contains within it the seed of corruption, the decay of morals, the debasement of mankind, and the ruin of liberty rightly understood. As it was in Rome, so it is now.

conspirationem] This Roman noun, which we have brought into our language, means simple 'consent' or 'common opinion;' as Cicero says 'conspiratio consensusque virtutum.' But it is also used to express union for a bad purpose, as in the oration Pro Deiotaro, c. 4: "Nihil de conspiratione audiebat certorum hominum contra dignitatem tuam."—'confringere:' there is a reading 'perfringere.'

XI. Quae quum ita sint, [patres conscripti,] pro imperio, pro exercitu, pro provincia quam neglexi, pro triumpho ceterisque laudis insignibus, quae sunt a me propter urbis vestraeque salutis custodiam repudiata, pro clientelis hospitiisque provincialibus, quae tamen urbanis opibus non minore labore tueor quam comparo; pro his igitur omnibus rebus, pro meis in vos singularibus studiis proque hac quam conspicitis ad conservandam rem publicam diligentia nihil a vobis nisi hujus temporis totiusque mei consulatus memoriam postulo, quae dum erit in vestris fixa mentibus, firmissimo me muro saeptum esse arbitrabor. Quod si meam spem vis improborum fefellerit atque superaverit, commendo vobis parvum meum filium, cui profecto satis erit praesidii non solum ad salutem verum etiam ad dignitatem, si ejus qui haec omnia suo solius periculo conservarit illum esse filium memineritis. Quapropter de summa salute vestra populique Romani, de vestris conjugibus ac liberis, de aris ac focis, de fanis ac templis, de totius urbis tectis ac sedibus, de imperio ac libertate, de salute Italiae, de universa re publica decernite diligenter ut instituistis, ac fortiter. Habetis [enim] eum consulem qui et parere vestris decretis non dubitet, et ea quae statueritis quoad vivet defendere et per se ipsum praestare possit.

11. *pro provincia*] "According to the Lex Sempronia de provinciis consularibus (B.C. 122) it was the business of the Senate before the consular elections to determine the provinces to which the consuls should go after the termination of their consulship, and the consuls then cast lots for their respective provinces, or agreed about them. At this time Antonius had got Gallia Cisalpina, and Cicero had got Macedonia, a province which gave him the expectation of a triumph and a rich booty. However, in order to draw off Antonius from his connexion with Catilina, Cicero gave up to him his province of Macedonia, and then renounced the province of Gallia; as he says in a letter to Atticus (ii. 1): "Oratio sexta consularis quum provinciam in contione deposui." Plutarch (Cicero, c. 12) says: "It was supposed also that Antonius was acquainted with the designs of Catilina, and was not averse to them on account of the magnitude of his debts, which chiefly gave alarm to the nobles. And this was the first object that Cicero directed his attention to; and he caused the province of Macedonia to be given to Antonius, and Gaul, which was offered to himself, he declined; and by these favours he gained over Antonius, like a hired actor, to play a second part to himself on behalf of his country." Cicero says further, in a letter to M. Cato (Ad Fam. xv. 4. 13): "Testis est consulatus meus—Itaque et provinciam ornatam et spem non dubiam triumphi neglexi" (Halm).

clientelis] The towns of the provinces often made a governor their 'patronus' when he left them; if he was a man in whom they had confidence. Many instances are easily collected of distinguished Romans being the Patroni of a province or of particular towns. Cicero gained the good will of the Sicilians during his quaestorship, and the Sicilians chose him as their 'patronus' in the prosecution of Verres. This selection of a man by a whole country or by a town to protect their interests was an honour to the man who was selected, and gave him influence at Rome. The origin of this may have been what Cicero (De Off. i. c. 11) says it was: "In quo tanto opere apud nostros justitia culta est ut ii qui civitates aut nationes devictas bello in fidem recepissent, earum patroni essent more majorum." (Halm.)

de summa salute] This may be compared with the expression 'summa res publica.'

praestare possit.] Some of the compounds

of 'stare' have an active sense, and perhaps the verb 'stare' had in some cases. In Greek the active and the passive notion is altogether confounded in the same verb (ἵ-στη-μι). 'Praestare' in its active sense means to 'place before,' that is to do a thing, to make an order or a resolution of the will a reality in act. Halm has a note on this, which is worth reading as an answer to a proposed emendation of a learned critic, who however is sometimes too acute to see a plain thing. "*Praestare possit*, that is, 'to answer for.' Since such a *praestare* is a matter of the will and the resolution, not of the power, Madvig (Opusc. Acad. p. 151) with Heumann would strike out *possit*, and make the infinitive depend on *non dubitet*, a conjecture, which on account of the position of *non dubitet*, which in that case should come either before *et parere* or after *praestare*, has little probability to recommend it. The correctness of the reading *possit* is supported particularly by the addition of the words 'per se ipsum,' by which Cicero expresses, though certainly with too much self-confidence, that he feels himself strong enough to maintain alone the decrees of the Senate against any attack." The proposed alteration is a sample of great want of judgment and great presumption. All the MSS. have 'possit,' which is enough, if it is intelligible. But it is more than intelligible. The sentence requires it; if it had been omitted, some judgment would have been shown in proposing to add it. Cicero says, and he ought to say: "You have a consul ready to obey your orders, and able as long as he shall live to maintain your resolutions and himself to give them effect."

Note.—When I wrote the notes on these four orations, I had Halm's edition of 1851 (Cicero's Ausgewaehlte Reden, Vol. iii.), which I supposed to be the latest. But there is an edition of 1853. I have compared this edition only with the last five chapters of the Fourth oration, but I have made no alterations in my notes. Halm says of his second edition of this volume (iii.), which contains the orations In Catilinam, Pro P. Sulla and Pro Archia, that he has made very numerous corrections and additions in the commentary, and some alterations in the critical notes. I have used for the text, as I have already said in the Preface, his edition of 1854 (Orelli's second edition).

INTRODUCTION

TO THE

ORATION FOR L. MURENA.

In the consular comitia for B.C. 63 the candidates were L. Catilina, Servius Sulpicius, L. Licinius Murena, and D. Junius Silanus. Murena and Silanus were elected. Catilina tried to avenge himself by hurrying on the execution of his conspiracy (Introduction to the Four Orations against Catilina). Servius commenced a prosecution against Murena for having used bribery (ambitus) at his election. Murena was prosecuted under the Lex Tullia in the month of November, B.C. 63, or between the eighth of November and the fifth of December (c. 2, 3, and the notes). Servius was assisted by M. Cato, Cn. Postumius, and his son Servius. Plutarch (Cato, c. 21; Cicero, c. 35) says that Cato was the prosecutor, and so he might call him, but he only helped Servius. He was what the Romans call 'subscriptor.' Cato took great pains about collecting evidence against Murena: "When Cato was prosecuting Murena for bribery and collecting the evidence, he was attended according to custom by those who had to watch what he did. Now these men would often ask him, whether he intended to collect any thing that day or to do any thing relating to the prosecution; and if he said No, they would trust him and go away" (Plutarch: Πῶς ἂν τὶς ὑπ' ἐχθρῶν ὠφελοῖτο; c. 9). Plutarch has the same story at greater length in his life (c. 21).

Cicero, Q. Hortensius, and M. Crassus defended Murena, and he was acquitted. Cicero spoke last (c. 23). He mentions this trial and his defence in several passages (Pro Flacco, c. 39; De Finibus, iv. 27).

If Murena was guilty, Cicero had a difficult task in defending him; and even if he was innocent, it was not an easy thing to defend Murena against the attacks of two honest men, who, we may assume, believed him to be guilty. Quintilian (Inst. xi. 1) admires the skill of Cicero: "Duae simul hujusmodi personae Ciceroni pro Murena dicenti obstiterunt, M. Catonis Serviique Sulpicii: quam decenter tamen Sulpicio,

quum omnes concessisset virtutes, scientiam petendi consulatus ademit? Quid enim aliud esset, quo se victum homo nobilis et juris antistes magis ferret? Ut vero rationem defensionis suae reddidit, quum se studuisse petitioni Sulpicii contra honorem Murenae, non idem debere accusationi contra caput, diceret? Quam molli autem articulo tractavit Catonem, cujus naturam summe admiratus, non ipsius vitio sed Stoicae sectae quibusdam in rebus factam duriorem videri volebat, ut inter eos non forensem contentionem, sed studiosam disputationem crederes incidisse."

Cicero's defence of Murena is in reply to Cato and Sulpicius. He begins with Cato (c. 2), and answers his complaint about Cicero, who had himself carried a Lex de ambitu, undertaking the defence of a man who was charged with bribery. He next (c. 3) answers Sulpicius, who complained that Cicero, who was his friend and had helped him in his canvass for the Consulship, now undertook the defence of his successful competitor. The real matter of the charge against Murena was divided into three parts; of which one was an attack on his character, the other was a comparison between his merit and that of Servius, and the third was the charge of bribery, the only part, as we should suppose, that it was necessary to answer (c. 5). Cicero employs a large part of his speech in a comparison between Murena and Servius, between the soldier and the jurisconsultus; and in a comparison between the career of the two rivals before Murena was elected consul (c. 7—20).

In c. 26 he begins to speak of the charge of bribery, and he says that though it had been answered sufficiently by those who had spoken before him, yet he will handle this matter again at the request of Murena. The answer that he made to Cn. Postumius and to the younger Servius does not appear in the editions of this speech, and probably it may have been omitted by Cicero himself when he published it.

In c. 28 he comes to Cato, whose character was such that Cicero feared the weight of his name more than the strength of his charges against Murena. What he says of Cato helps us to form an estimate of the man's character. Cicero certainly respected him, even if he did not like him; and he feared him too. At a later period, when Cicero was governor of Cilicia, and wished to have a triumph for his little victories, Cato was the man whom he wished to conciliate, and he wrote to him a long cajoling letter (Ad Div. xv. 4), to which Cato replied bluntly in a letter of twenty lines, which he calls a longer letter than he usually writes (Ad Div. xv. 5). Plutarch's life of Cato is an excellent portrait of character, and those who will read it will understand this oration better. "When the trial came on, Cicero who was then consul and one of the advocates of Murena, on account of Cato's connexion with the

Stoics, ridiculed and mocked these philosophers and their so-called paradoxes, and thus made the Judices laugh. On which it is said that Cato, with a smile, observed to those who were present, 'My friends, what a ridiculous consul we have!'"

Cicero's friend Servius Sulpicius was about the same age as Cicero. He studied oratory with him, and accompanied him to Rhodes in B.C. 78. He afterwards devoted himself to jurisprudence upon the suggestion of the Pontifex Q. Mucius Scaevola, himself one of the best and most illustrious of the Romans. We know more of Servius than Cicero tells us in this oration, and our authority for his great talents and virtues is Cicero himself. He was a man of strict integrity, great industry, and of a clear and solid judgment. On his return from Rhodes, says Cicero (Brutus, c. 41), he seems to me to have preferred being the first in the second art (jurisprudence) to being second in the first (oratory); and I am inclined to think he might have equalled the first orators, but perhaps he preferred, and he certainly accomplished it, to be the first not only of all the men of his age, but even of those before him in the civil law. He adds that Scaevola and many others had great practical knowledge of the law, but Servius alone possessed it as an art. However he would never have accomplished this by the mere knowledge of law, if he had not also learned the art which teaches us to distribute the whole matter of a thing into its parts, to develope by definition that which is not apparent, and to explain by interpretation what is obscure; the art which teaches us first to see what is ambiguous, and then to separate it: finally, the art which gives us a rule for determining what is true and what is false, and what conclusions follow and what do not follow from the premises. For Servius brought to the study of the law this art, the first of all arts, which may be compared to a light thrown on those things which others treated obscurely either in their legal opinions or in their spoken arguments. Cicero explains this art to be Dialectic, to which Servius added literary acquirements, and elegance of language, as his writings, with which no others can be compared, easily show. This is Cicero's judgment of the man, whose talents and character made him the first of jurists, an excellent orator, a skilful advocate, an example of a noble and elevated character such as Rome only has produced.

Servius was a very voluminous writer. He is often cited in the Digest, but there is no excerpt from his writings. Quintilian (Inst. x. 1, and 7) speaks of three orations of Servius being extant in his time, one of which was his speech against Murena, the destruction of which is a real loss to literature. Two letters of Sulpicius to Cicero are in the collection of Cicero's letters Ad Familiares, one of which (Lib. iv. 5) is the letter written from Greece in which he consoles his friend for the

loss of his only daughter Tullia. When Servius died on a mission to M. Antonius in the camp before Mutina (B.C. 43), Cicero pronounced his panegyric in the Senate, and moved that he should have a public funeral and a bronze statue, which was placed in front of the Rostra (Philipp. ix.).

Cicero had two formidable opponents to answer, the most virtuous and enlightened of the Roman jurists, and a rigid Stoic, who practised what he professed. There is no fear of a careful reader taking literally all Cicero's ridicule of the law. The best thing that he could do for his client was to show that the profession of arms was nobler than the profession of the law; and he may be excused if he laid hold of the forms of law, of the ridiculous side of it, of that which disgusts every man of taste, in order to raise a laugh and put the Judices in humour. The Romans had good sense, they were ready at apprehending legal principles, and they could apply them well to facts; but as procedure must have its forms, which are sometimes kept after they have lost their original meaning; as every thing turns on words and expression, by which all the intercourse of life is regulated; and as men of small capacity and narrow views are most ready and most fit for conducting most of the common business of life; so it happens that the law becomes a field of petty warfare in which little minds and mean men contend about trifles at the cost of their clients. Cicero did right to ridicule these miserable pettifoggers. The character of Servius was too well known to suffer from Cicero's ridicule, which perhaps did no more than make him smile. He knew what he was, and Cicero did too, and all Rome. What other opinion could this accomplished man have about the trivialities of the law than Cicero himself? Perhaps no man is more impatient of the fraud, meanness, and miserable trifling of the ignorant lawyer, than the man who is a master of the science and would maintain its honour. The ridicule of the Stoics could touch Cato as little as the ridicule of the lawyers touched Servius. There were pretenders to philosophy then as there are now; men who delighted in paradoxes, and who would rather be notorious even as fools than live unknown in obscurity, conscious of the rectitude of their judgment and of their integrity. The speech, if well delivered, as we assume that it was, must have produced the effect that the consul wished, to exalt the soldier in the eyes of the Judices, to show them that the sword was the sign by which Rome held her power, and to amuse them with ridicule of things well known to the Judices in their daily experience, and which every man would take a pleasure in laughing at. To keep his Judices in good humour, and to make them merry at the expense of the prosecutors, was Cicero's purpose; and whether the facts of bribery were strongly urged against Murena or not, the best thing he could do for

his client was to give him a good character and divert attention from the charge of bribery.

Cicero tells us something of the defendant Murena. He was the son of L. Licinius Murena, who commanded a division of the Roman army in the battle of Chaeronea (B.C. 86), in which L. Sulla defeated Archelaus. He accompanied Sulla to Asia in B.C. 84, in which year L. Sulla concluded peace with Mithridates, and being in a hurry to return to Italy, left Murena as Propraetor of the province of Asia. Murena began a second war against Mithridates without any authority. (Introduction to the oration De Imp. Cn. Pompeii.)

L. Licinius Murena the son was summoned into Asia by his father about B.C. 83, to learn the military art in the campaign against Mithridates. His career is described by Cicero in this oration. He was Quaestor with Servius Sulpicius. His aedileship is not mentioned; at least he did not exhibit any games in it (Drumann, Geschichte Roms, iv. 185). He was a 'legatus' of L. Lucullus for several years in the third Mithridatic war, but he returned from Asia before him. In B.C. 65 he was Praetor Urbanus, and gained popularity by the splendour of his public shows. After his praetorship he had the Provincia of Gallia Transalpina, otherwise called the Provincia or Gallia Narbonensis. His career up to the time of his consulship is sketched by Cicero in this oration.

After Murena's acquittal he voted in the Senate for the death of the conspirators (Ad Att. xii. 21). When Murena entered on his consulship in B.C. 62, the conspirators at Rome had been executed, and Catilina fell in battle early in B.C. 62. The Roman Laws on bribery at elections (de ambitu) and some matters connected with bribery are examined in the Introduction and the notes to the oration Pro Cn. Plancio.

The edition of this oration in Orelli's second edition is by Halm, who has given the readings. I have occasionally cited his MSS. He says: "non habemus hujus orationis codices saeculo xv vetustiores, omnesque ex uno exemplo derivati sunt, quod Poggius initio saeculi xv primus ex Germania in Italiam portasse dicitur." This is one of the many services that Poggio rendered to the cause of letters.

The following are some of the MSS. used by Halm:—G = Codex Helmstadtiensis, nunc Wolfenbuttelanus; E = Codex Monacensis; M = Codex Monacensis, olim Salisburgensis aulicus: E and M have been collated by Halm. v = ed. Veneta, a. 1472, collated by Halm.

I have used for this oration some of the older commentators, and an edition by A. Moebius, revised by G. C. Crusius, 1846. The notes are abundant, and though they are not very good, they have been sometimes useful.

M. TULLII CICERONIS

PRO

L. MURENA

ORATIO.

I. Quae precatus a diis immortalibus sum, judices, more institutoque majorum, illo die quo auspicato comitiis centuriatis L. Murenam consulem renuntiavi, ut ea res mihi magistratuique meo, populo plebique Romanae bene atque feliciter eveniret; eadem precor ab iisdem diis immortalibus ob ejusdem hominis consulatum una cum salute obtinendum, et ut vestrae mentes atque sententiae cum populi Romani voluntatibus suffragiisque consentiant, eaque res vobis populoque Romano pacem, tranquillitatem, otium concordiamque afferat. Quod si illa sollemnis comitiorum precatio consulari-

1. *Quae precatus*] The MSS. have 'Quae deprecatus,' but Quintilian, who quotes this passage (Inst. ix. 4, 107) as an example of a discourse beginning with a cretic, has 'Quod precatus a diis immortalibus sum,' and Donatus (ad Terent. Andr. iii. 4, 3) has 'Quod precatus sum a diis immortalibus.' It is however possible that both of them had in view the passage of the oration Pro Red. ad Quir., which begins "Quod precatus a Jove—ceterisque diis immortalibus" (Halm). If 'deprecari' is right, it may be considered as a stronger form of 'precari.'

renuntiavi,] The technical word by which is expressed that the consul who presided at the election declares the candidate duly elected.—'mihi magistratuique meo:' 'mihi, fidei magistratuique meo,' Halm.—'ob ... obtinendum:' 'that Murena may be acquitted and retain the consulship.' His 'salus' is his acquittal. 'Eaque res' refers to what has gone before, to 'ut vestrae ... consentiant.' Moebius says that 'ea res' means 'ea renuntiatio;' but it is not so.

illa sollemnis—precatio] The 'magistratus' who addressed the people began with a prayer: "Consules in rostra escenderunt, et contione advocata, quum solemne carmen precationis quod praefari priusquam populum alloquantur magistratus solent, peregisset consul ita coepit" (Liv. 39, c. 15).—'Me rogante:' when he held the Comitia, and asked the people whom they would have for consuls, for 'rogare' is said of the presiding magistrate at elections as well as of him who proposes a Lex. It is not easy to see the connexion between 'Quod si' and 'idem ego.' I do not find any notice of this by the critics. The translation is: "Now if that solemn prayer made at the comitia, consecrated by the consular auspicia, contains in it all the efficacy and all the religious observance that the honour of the state requires, I also prayed that to the men, on whom this consulship was conferred when I held the comitia, it might be a lucky, a fortunate, and a happy event." The difficulty is in seeing why he says 'if that solemn prayer' &c.; but I suppose he means to say that if the prayer was all that it ought to be, it contained by implication at least a prayer for the prosperity of the two new consuls.

bus auspiciis consecrata tantam habet in se vim et religionem quantam rei publicae dignitas postulat, idem ego sum precatus, ut eis quoque hominibus, quibus hic consulatus me rogante datus esset, ea res fauste, feliciter prospereque eveniret. Quae quum ita sint, judices, et quum omnis deorum immortalium potestas aut translata sit ad vos, aut certe communicata vobiscum, idem consul eum vestrae fidei commendat, qui antea diis immortalibus commendavit; ut ejusdem hominis voce et declaratus consul et defensus beneficium populi Romani cum vestra atque omnium civium salute tueatur. Et quoniam in hoc officio studium meae defensionis ab accusatoribus, atque etiam ipsa susceptio caussae reprehensa est, antequam pro L. Murena dicere instituo, pro me ipso pauca dicam; non quo mihi potior, hoc quidem in tempore, sit officii mei quam hujusce salutis defensio, sed ut, meo facto vobis probato, majore auctoritate ab hujus honore, fama fortunisque omnibus inimicorum impetus propulsare possim.

II. Et primum M. Catoni, vitam ad certam rationis normam dirigenti et diligentissime perpendenti momenta officiorum omnium, de officio meo respondebo. Negat fuisse rectum Cato, me et consulem et legis ambitus latorem et tam severe gesto consulatu caussam L. Murenae attingere. Cujus reprehensio me vehementer movet, non solum ut vobis, judices, quibus maxime debeo, verum etiam ut ipsi Catoni, gravissimo atque integerrimo viro, rationem facti mei probem. A quo tandem, M. Cato, est aequius consulem defendi quam a consule? Quis mihi in re publica potest aut debet esse conjunctior, quam is cui res publica a me uno traditur susti-

translata—communicata] The gods have transferred all their power to the 'judices,' or at least have shared it with them. The 'judices' who have to decide on Murena's guilt have the power of deciding for the welfare or the misfortune of the state. The 'beneficium populi Romani' is the consulship which the Roman people confer. (Vol. I. Verr. ii. 1. c. 5.)

2. *momenta*] That is, 'movimenta,' the 'movements,' and this word with 'perpendenti' shows that Cicero uses the metaphor of a balance: hence 'momentum' means 'weight.' Plutarch in his life of the younger Cato says of him (c. 4), that he got a priestly office, that of Apollo. At Rome a man might be general, magistrate, governor of a province, and priest. After becoming a priest, "making his companion of Antipater of Tyrus, a Stoic, he attached himself mainly to ethical and political studies, occupying himself with every virtue, as if he were possessed by some divine influence; but above all, that part of the beautiful which consists in steady adherence to justice, and in inflexibility towards partiality or favour was his great delight. He disciplined himself also in the kind of speaking which works upon numbers, considering that as in a great state, so in political philosophy, there should be nurtured with it something of the contentious quality." (Plutarch, Cat. Min. c. 4.)

legis ambitus] The Lex Tullia de Ambitu, enacted in this year B.C. 63 in Cicero's consulship. (In Vatin. c. 15.) One might almost infer from this passage that his office had expired, but it was not so.

uno traditur] 'Una,' E. G. M. One Paris MS. has 'uno.' Those who accept 'uno' explain it thus: Cicero held the 'consularia comitia' alone and made the return (renuntiavit) as consul, his colleague Anto-

nenda, magnis meis laboribus et periculis sustentata? Quod si in iis rebus repetendis quae mancipi sunt, is periculum judicii praestare debet qui se nexu obligavit, profecto etiam rectius in judicio consulis designati is potissimum, consul qui consulem declaravit, auctor beneficii populi Romani defensorque periculi esse debebit. Ac si, ut nonnullis in civitatibus fieri solet, patronus huic caussae publice constitueretur, is potissime honore affecto defensor daretur, qui eodem honore praeditus non minus afferret ad dicendum auctoritatis quam facultatis. Quod si [e] portu solventibus ii qui jam in portum ex alto invehuntur praecipere summo studio solent et tempestatum rationem et praedonum et locorum, quod natura fert ut eis faveamus qui eadem pericula quibus nos perfuncti sumus ingre-

nius being out of Rome at the head of the army which followed Catilina. But even if Antonius was at Rome during the election, one consul could preside at the Comitia, which indeed was the usual practice, and it is likely enough that the consul who had been first returned at his own election would preside at the election of the next consuls. There is nothing then either arrogant or inconsistent in Cicero saying that the 'state is transferred by him alone,' no more than in saying that it is transferred to Murena; for as there was another consul in office besides Cicero, so there was another consul besides Murena to whom the care of the state was transferred by the new Comitia. I see then no objection to 'uno.' Klotz proposes 'jam;' and Halm 'cuncta,' but still he keeps 'una.'

in iis rebus repetendis] The 'res mancipi' are those things of which the ownership is transferred by Mancipatio, which is the same as 'traditio alteri nexu' (Cic. Top. c. 5). The seller is answerable to the buyer, if the buyer is evicted from what he has bought by a man who has a better title than himself. If the buyer was sued by a man who claimed what he had bought, the seller must stand the risk of the trial. 'Periculum praestare' with a genitive is a legal expression (Dig. 27. 7. 39, Excerpt from Papinian). Cicero calls himself the 'auctor beneficii populi Romani;' and he compares himself to a seller of a thing who undertakes to make it good to the buyer in case of eviction. The seller is the 'auctor' (Vol. I. Verr. ii. 5. c. 22).

consul qui consulem] Madvig, says Halm, saw that 'consul' ought to be erased; and for this reason: "When we say 'is potissimum consul,' we do not mean that the consul ought to defend before all others, but that this consul (*hunc* consulem) rather than the other, which is most absurd; for it is not the question, whether this consul, but whether a consul should defend a man who is guilty of bribery." Accordingly Halm has put 'consul' in brackets. Madvig has simply mistaken the meaning of Cicero, who does not say 'hic consul.' He says: "In truth with more reason in the trial of a consul designatus, he of all others, a consul, who declared the man to be consul, will be under an obligation to make himself the guarantee of the honour that the Roman people have conferred and the man to repel the danger."

nonnullis in civitatibus] In some states persons were appointed to act for the state (publice) in prosecutions and in defences. Moebius refers to Wolff's Prolegomena to the Leptines (p. 136): "Creabantur vero Syndici vel publice vel privatim: *publice* per χειροτονίαν, non propter leges tantum, sed ad defendendam domi aut foris quamcunque partem rei publicae in caussis civitatem universam spectantibus."

potissime] This or 'potissimo' is the MSS. reading, out of which Madvig has made 'potissimum summo,' from the coalition of which he supposes that the MSS. reading has come. But he has not perceived, I suppose, that Cicero would not limit his argument to a case of 'summus honos.' Halm follows Madvig.

e portu] The preposition is not in the MSS. of Cicero, but it is in some MSS. of Quintilian, who quotes this passage (Inst. v. 11. 23). Some MSS. of Quintilian have also 'praedicere' in place of 'praecipere.' Halm has followed Quintilian in both cases. 'Praedicere,' says Wesenberg, is most appropriate here; he doubts if 'praecipere' will do in this passage. The reading 'praedicere,' says Moebius, is hardly worth mention. So they differ.

diantur, quo tandem me esse animo oportet, prope jam ex magna jactatione terram videntem, in hunc cui video maximas rei publicae tempestates esse subeundas? Quare si est boni consulis non solum videre quid agatur, verum etiam providere quid futurum sit, ostendam alio loco, quantum salutis communis intersit duos consules in re publica Kalendis Jan. esse. Quod si ita est, non tam me officium debuit ad hominis amici fortunas quam res publica consulem ad communem salutem defendendam vocare.

III. Nam quod legem de ambitu tuli, certe ita tuli ut eam quam mihimet ipsi jampridem tulerim de civium periculis defendendis non abrogarem. Etenim si largitionem factam esse confiterer, idque recte factum esse defenderem, facerem improbe, etiam si alius legem tulisset; quum vero nihil commissum contra legem esse defendam, quid est quod meam defensionem latio legis impediat? Negat esse ejusdem severitatis Catilinam exitium rei publicae intra moenia molientem verbis et paene imperio urbe expulisse, et nunc pro L. Murena dicere. Ego autem has partes lenitatis et misericordiae, quas me natura ipsa docuit, semper egi libenter; illam vero gravitatis severitatisque personam non appetivi, sed ab re publica mihi impositam sustinui, sicut hujus imperii dignitas in summo periculo civium postulabat. Quod si tum quum res publica vim et severitatem desiderabat, vici naturam et tam vehemens fui quam cogebar,

Kalendis Jan.] This shows that the oration was delivered before the first of January, on which day the new consuls entered on their office. (Compare c. 37.) Manutius infers from the words 'pericula quibus nos perfuncti,' that this speech was delivered after the fifth of December, the day on which the conspirators were executed; but the conclusion is not certain. He says indeed that it concerns the common interest that there should be two consuls on the first of January, and there would only be one if Murena was convicted, unless another could be elected immediately. If the speech was delivered before the fifth of December, there was plenty of time to elect a new consul. However nothing is so insecure as a conclusion derived from Cicero's general expressions; and we know that Murena voted for the punishment of the conspirators. Indeed it is plain from c. 37. 39 of this oration that the conspirators in the city were not yet apprehended. See also the oration Pro Domo, c. 52.

3. *quam mihimet ipsi*] He first uses the expression 'legem tuli' in the proper sense: 'I proposed and carried a lex,' for it means all that. He then uses it in the improper sense when he says "quam mihimet ipsi—tulerim," "the law which I imposed on myself," his resolution to defend his fellow-citizens. Wesenberg conjectures that we should write 'abrogarim;' and Halm says 'probabiliter.' I think not.

Catilinam—verbis] See the Introduction to the Orations In Catilinam; and In Cat. ii. c. 6. This passage shows that the speech was made after the eighth of November, when Catilina left Rome. (Introd.)

personam] Cicero often uses this word, which, it is generally said, is taken from the stage. It is not material whether this be true or not. The word signified a human being as invested with a certain character or office, and hence it has a legal signification. (Vol. I. Verr. ii. 2. c. 17.) He says, Pro Archia (c. 2): "Et in ejusmodi persona quae propter otium ac studium minime in judiciis periculisque tractata est uti prope novo quodam et inusitato genere dicendi." He uses the word again in the oration Pro Sulla, c. 3: "Hanc mihi tu si propter res meas gestas imponis in omni vita mea personam."

non quam volebam; nunc, quum omnes me caussae ad misericordiam atque ad humanitatem vocent, quanto tandem studio debeo naturae meae consuetudinique servire? Ac de officio defensionis meae ac de ratione accusationis tuae fortasse etiam alia in parte orationis dicendum nobis erit.

Sed me, judices, non minus hominis sapientissimi atque ornatissimi Servii Sulpicii conquestio quam Catonis accusatio commovebat, qui gravissime et acerbissime ferre se dixit me familiaritatis necessitudinisque oblitum caussam L. Murenae contra se defendere. Huic ego, judices, satisfacere cupio, vosque adhibere arbitros. Nam quum grave est vere accusari in amicitia, tum, etiam si falso accuseris, non est negligendum. Ego, Servi Sulpici, me in petitione tua tibi omnia studia atque officia pro nostra necessitudine et debuisse confiteor et praestitisse arbitror. Nihil tibi consulatum petenti a me defuit quod esset aut ab amico aut a gratioso aut a consule postulandum. Abiit illud tempus: mutata ratio est. Sic existimo, sic mihi persuadeo, me tibi contra honorem Murenae quantum tu a me postulare ausus sis tantum debuisse; contra salutem nihil debere. Neque enim si tibi tum quum peteres consulatum affui, nunc quum Murenam ipsum petas adjutor eodem pacto esse debeo. Atque hoc non modo non laudari, sed ne concedi quidem potest, ut amicis nostris accusantibus non etiam alienissimos defendamus.

IV. Mihi autem cum Murena, judices, et magna et vetus amicitia est, quae in capitis dimicatione a Servio Sulpicio non idcirco

Ac de officio] Goerenz altered this to 'At,' which he thought that the sense required. (Ad Cic. Acad. ii. 2.)

sapientissimi] His 'sapientia' was his legal knowledge. 'Sapientia' is used to signify philosophy too; and more commonly. Sulpicius was both a philosopher and a jurist; and he was a better jurist because he was a philosopher. Cicero, who has well explained many things, tells us who is 'vir sapiens et prudens,' and he wrote this at the end of his life after a large experience of men: "Ut enim quisque maxime perspicit quid in re quaque verissimum sit, quique acutissime et celerrime potest et videre et explicare rationem, is prudentissimus et sapientissimus rite haberi solet" (De Off. i. 5). This was the opinion of another great writer, who describes in these terms the character of Themistocles (Thucyd. i. 138).

gratioso] One who had what we call influence with all people or classes, the favourite of the people: "Tum Pythius, qui esset ut argentarius apud omnes ordines gratiosus" (De Off. iii. 14).

affui,] Or 'adfui,' the common expression in such cases. He who helps a man in a matter is said 'adesse' (Vol. I. Verr. ii. 2. c. 29). The common reading is 'consulatum adfui idcirco nunc,' which, says Halm, is "contra codd."

4. *capitis dimicatione*] "In a trial when his honour is at stake," as we might say; his civil honour, for if he had been convicted, he must have gone into exile for ten years.—'ab eodem:' 'ab eo,' Halm, who follows G v. 'Amicitia,' he says, "non obruetur;" and again of 'amicitia' he says, "superata est," both of them forms of expression which our language does not admit. What he says is this: "When Murena's honour is at stake, I will not allow my friendship for him to be crushed by Serv. Sulpicius, because when they were rival

obruetur, quod ab eodem in honoris contentione superata est. Quae si caussa non esset, tamen vel dignitas hominis vel honoris ejus quem adeptus est amplitudo summam mihi superbiae crudelitatisque famam inussisset, si hominis et suis et populi Romani ornamentis amplissimi caussam tanti periculi repudiassem. Neque enim jam mihi licet, neque est integrum, ut meum laborem hominum periculis sublevandis non impertiam. Nam quum praemia mihi tanta pro hac industria sint data quanta antea nemini, sic et si ceperis eos quum adeptus sis deponere esset hominis et astuti et ingrati. Quod si licet desinere, si te auctore possum, si nulla inertiae, nulla superbiae turpitudo, nulla inhumanitatis culpa suscipitur, ego vero libenter desino. Sin autem fuga laboris desidiam, repudiatio supplicum superbiam, amicorum neglectio improbitatem coarguit, nimirum haec caussa est ejusmodi quam nec industrius nec misericors nec officiosus deserere possit. Atque hujusce rei conjecturam de tuo ipsius studio, Servi, facillime ceperis. Nam si tibi necesse putas etiam adversariis amicorum tuorum de jure consulentibus respondere, et si turpe existimas te advocato illum ipsum quem contra veneris caussa cadere; noli tam esse injustus ut, quum tui fontes vel inimicis tuis pateant, nostros etiam amicis putes

candidates for the consulship my friendship for Murena gave way to my friendship for Sulpicius."

caussam tanti periculi] A cause in which his risk or danger is so great.—'integrum:' he first says, 'I am not allowed,' and he adds 'neque est integrum,' the matter is not one in which I can exercise my discretion, or do as I please. I do not know how we can express this in a word or two.

sic et si ceperis eos quum, &c.] This is corrupt, and I have let it stand as it is in Halm, for it is impossible to derive the true reading from the MSS. readings. The common reading is "nemini: labores per quos ea ceperis, quum adeptus sis," &c., of which Halm says "per se ipsa bonam sententiam habet, sed ex codd. vestigiis apparet aliud quid latere in loco corrupto et lacunoso."

nulla inertiae,] Lambinus added 'nota' after 'inertiae,' which he thought to be necessary for uniformity's sake; and Halm, with some other critics, has accepted Lambinus' offering.—'industrius quispiam,' Halm.

de jure—respondere,] The 'juris consultus' gave his opinion (responsum) on the cases which were laid before him; and he gave it sometimes orally, sometimes in writing. Cicero also says "si te ad jus respondendum dedisses" (Cic. De Legg. i. 4). Many of these cases with their answers are in the Excerpts in the Digest. There were books or collections of Responsa by Scaevola, by Paulus, and by other jurists. The following is an example of a case and the opinion (Dig. 20. 1. 29): "Domus pignori data exusta est eamque aream emit Lucius Titius et exstruxit. Quaesitum est de jure pignoris. Paulus respondit: Pignoris persecutionem" &c.

te advocato] "If you think it a disgrace when your advice is asked, for a man to fail in his case, even one whom you had opposed on another occasion." 'Caussa cadere' is to lose a suit, to be cast or convicted. The term 'advocatus' has a very wide meaning: it is any body whose advice or assistance is asked and given (Vol. II. Pro P. Quintio, c. 1). The expression 'quem contra veneris' is explained by a passage in the oration Pro Rosc. Com. c. 6: "Quid, tu Saturi, qui contra hunc venis, existimas aliter?"

nostros etiam] Most editions have 'rivulos' between 'nostros' and 'etiam;' but according to Halm there is no MSS. authority for it. 'Fontes' and 'rivuli' are opposed in a passage of Cicero (De Or. ii. 27): "Tardi ingenii est rivulos consectari, fontes rerum non videre." Some of the critics think this passage is improved by the

clausos esse oportere. Etenim si me tua familiaritas ab hac caussa removisset, et si hoc idem Q. Hortensio, M. Crasso, clarissimis viris, si item ceteris, a quibus intelligo tuam gratiam magni aestimari, accidisset; in ea civitate consul designatus defensorem non haberet, in qua nemini umquam infimo majores nostri patronum deesse voluerunt. Ego vero, judices, ipse me existimarem nefarium si amico, crudelem si misero, superbum si consuli defuissem. Quare quod dandum est amicitiae, large dabitur a me, ut tecum agam, Servi, non secus ac si meus esset frater qui mihi est carissimus isto in loco. Quod tribuendum est officio, fidei, religioni, id ita moderabor ut meminerim me contra amici studium pro amici periculo dicere.

V. Intelligo, judices, tres totius accusationis partes fuisse, et earum unam in reprehensione vitae, alteram in contentione dignitatis, tertiam in criminibus ambitus esse versatam. Atque harum trium partium prima illa, quae gravissima debebat esse, ita fuit infirma et levis ut [illos] lex magis quaedam accusatoria quam vera maledicendi facultas de vita L. Murenae dicere aliquid coegerit. Objecta est enim Asia, quae ab hoc non ad voluptatem et luxuriam expetita est, sed in militari labore peragrata; qui si adolescens

addition of 'rivulos;' and Moebius translates it: "do not insist on my small knowledge of law being refused to my friends, while you do not refuse your abundant learning even to your enemies;" and he adds 'a fine irony.' Fine indeed; as if Cicero meant to compare his legal knowledge, of which he had little and to which he made no pretensions, with the great acquirements of Sulpicius, which he knew how to value. (Introduction.)

Q. Hortensio, M. Crasso,] They had spoken before Cicero, to whom they left the peroration, as was done on other occasions: "Tum Brutus, Quid tu, inquit, quaeris alios? de te ipso nonne quid optarent rei, quid ipse Hortensius judicaret videbamus? qui quum partiretur tecum caussas, saepe enim interfui, perorandi locum, ubi plurimum pollet oratio, semper tibi relinquebat" (Cicero, Brutus, c. 51. Compare Pro Balbo, c. 7).

isto in loco.] This should mean in the place where you are, the prosecutors'. Manutius mistook the meaning; he says "in hac dignitate consulari."

5. *tres totius*] We should make only one charge in such a case, for the man was only accused of bribery. But his past life was also reviewed by the prosecutors; this was the first part. The second was the 'comparison of merit' in the rival candidates, 'contentio dignitatis' (compare c. 7; and c. 9, 'de dignitate contendas'). He says that the first part of the charge was so feeble that the prosecutors were rather compelled by a kind of rule established in prosecutions (lex quaedam accusatoria) to conform to this practice, than because they really could say any thing against Murena. There is a passage from the oration Pro Caelio (c. 3): "Sed aliud est maledicere, aliud accusare. Accusatio crimen desiderat, rem ut definiat, hominem ut notet, argumento probet, teste confirmet. Maledictio autem nihil habet propositi praeter contumeliam, quae si petulantius jactatur convicium, si facetius urbanitas nominatur."

Objecta est—Asia,] The seat of luxury, the corrupter of the Romans (Vol. II. Asia). The form of expression seems singular, but it is intelligible; "Asia is made a charge against him;" as in the oration Pro Fonteio, c. 20 (Vol. II.): "Primum objicitur contra istorum impetus Macedonia;" but in that passage Macedonia is produced in defence of the accused. In c. 8 of this oration there is the common use of the word, 'ne ignobilitas objiceretur.'

patre suo imperatore non meruisset, aut hostem aut patris imperium timuisse aut a parente repudiatus videretur. An quum sedere in equis triumphantium praetextati potissimum filii soleant, huic donis militaribus patris triumphum decorare fugiendum fuit, ne rebus communiter gestis paene simul cum patre triumpharet? Hic vero, judices, et fuit in Asia, et viro fortissimo, parenti suo, magno adjumento in periculis, solatio in laboribus, gratulationi in victoria fuit. Et si habet Asia suspicionem luxuriae quandam, non Asiam numquam vidisse, sed in Asia continenter vixisse laudandum est. Quamobrem non Asiae nomen objiciendum Murenae fuit, ex qua laus familiae, memoria generi, honos et gloria nomini constituta est; sed aliquod aut in Asia susceptum aut ex Asia deportatum flagitium ac dedecus. Meruisse vero stipendia in eo bello, quod tum populus Romanus non modo maximum sed [etiam] solum gerebat, virtutis; patre imperatore libentissime meruisse, pietatis; finem stipendiorum patris victoriam ac triumphum fuisse, felicitatis fuit. Maledicto quidem idcirco nihil in hisce rebus loci est, quod omnia laus occupavit.

VI. Saltatorem appellat L. Murenam Cato. Maledictum est, si

sedere in equis] The man who triumphed took his little children and kinsfolk of both sexes into his triumphal chariot, which must have been rather large if it contained such a party. Those who were grown up rode on horses, which were either attached to the chariot, or, if there were too many of them, they rode on horses behind (Graevius). Appian (Punica, c. 66, and the note of Tollius), who describes a Roman triumph, says: Ἐπιβαίνουσι δ' αὐτῷ ἐπὶ τὸ ἅρμα παῖδές τε καὶ παρθένοι, καὶ ἐπὶ τῶν παρηόρων ἑκατέρωθεν ἠΐθεοι, συγγενεῖς. Tiberius rode in the triumph of Octavianus: "Dehinc pubescens Actiaco triumpho currum Augusti comitatus est, sinisteriore funali equo, quum Marcellus Octaviae filius dexteriore veheretur" (Sueton. Tiber. c. 6; and the note of Torrentius). There are gold medals of Augustus extant, in which he appears in a chariot drawn by four elephants, with a man mounted on each. Torrentius supposed that these were young Romans, but they were Indians who managed the elephants, as Cuper. de Eleph. Exerc. 11. c. 10. p. 229, shows (Burmann). Graevius in his note on Florus (iv. 2) has also produced a coin of a triumphal procession. The authority for persons being mounted on the 'equi jugales,' on the two horses on each side of the pole, is Zonaras. But Appian only mentions the 'equi funales,' or παρήοροι, the horses placed one on each side of the 'jugales;' and it seems the better conclusion that nobody rode on the 'equi jugales.' Domitian rode on a white horse in the triumph of his father Vespasian and his brother Titus (Sueton. Dom. c. 2). See also Tacit. Ann. ii. 41. The unworthy triumph of Murena's father was for his victories, such as they were, over Mithridates. (Vol. II. Introduction to the oration De Imp. Cn. Pompeii)

ne rebus] M. and Halm. G. has 'ut rebus,' and E. has 'ne ut rebus.' I do not understand 'ut.' 'Ne' is intelligible: "Should Murena, who had gained military honours (dona militaria) have refused to adorn his father's triumph, and when he had assisted his father in his wars, should he not have made himself almost a partner in his triumph?" See De Imp. Cn. Pompeii, c. 3, note (Vol. II.).

susceptum—flagitium] See De Imp. Cn. Pompeii, c. 3, note on 'macula—concepta.'

etiam solum] G. omits 'etiam,' and it is better omitted.

6. *Saltatorem*] He was reproached with having danced, not as a man might dance now, I suppose, in society, but at such revels as Cicero describes. Sempronia (Introduction to the orations against Catilina) danced too well for an honest woman; which means that her dancing was not

vere objicitur, vehementis accusatoris; sin falso, maledici conviciatoris. Quare quum ista sis auctoritate, non debes, M. Cato, arripere maledictum ex trivio aut ex scurrarum aliquo convicio, neque temere consulem populi Romani saltatorem vocare, sed circumspicere quibus praeterea vitiis affectum esse necesse sit eum, cui vere istud objici possit. Nemo enim fere saltat sobrius, nisi forte insanit, neque in solitudine, neque in convivio moderato atque honesto. Tempestivi convivii, amoeni loci, multarum deliciarum

decent. Macrobius says (ii. 10): "Taceo quod matronae etiam saltationem non inhonestam putabant, sed inter probas quoque earum erat saltandi cura, dummodo non curiosa usque ad artis perfectionem: quid enim ait Sallustius: 'Psallere, saltare elegantius quam necesse est probae:' adeo et ipse Semproniam reprehendit, non quod saltare, sed quod optime scierit." The Romans danced, but the dance was decent. We dance too; but if a woman danced in society like an opera dancer on the stage, we should set her down as an indecent woman, and the company as no better. There is a curious passage in Macrobius (ii. 10) about dancing, from a speech of Scipio Africanus Aemilianus, which he found the means of introducing where we should not expect it, in a speech against the Lex Judiciaria of Ti. Gracchus. The Greeks and Romans had immodest dances. The Spanish women excelled in this, the women from Gades (Cadiz), who still practise it. (Juvenal, xi. 162.)—'M. Cato:' 'Marce,' Halm.

ex trivio] Picked up from the streets, where many a coarse joke and much abuse was heard. The Italians had a talent in this way. There is a reading 'aliquo convivio,' but I do not know what authority there is for it. Halm writes 'convitium,' on which there are some remarks in Forcellini (v. Convicium).

There is a note on 'scurra' in Vol. II. Pro P. Quintio, c. 3. Schmid (Horace, Ep. i. 15. 28) says "these 'scurrae' seem to have been originally poorer Roman citizens without landed property, who attached themselves to the rich to live upon them." Men without any thing we may suppose; but men perhaps of some little education, idle fellows, mean enough to do any thing rather than work. Horace's proscribed Rupilius Rex (Sat. i. 7) may be a sample of one; and he introduces another by name, Sarmentus (Sat. i. 5), who amuses the polite company. He helped to make the supper go off well. Even Horace was pleased. Any thing will please a good-humoured man when he is travelling and wants amusement:

> "Prorsus jucunde caenam produximus illam." (Horace, Sat. i. 5. v. 70.)

circumspicere] The true reading, though the reading of two MSS. only. The other reading is 'conspicere.'

Tempestivi convivii,] Pro Archia, c. 6: "quantum alii tribuunt tempestivis conviviis, quantum denique aleae," &c. In this passage there is also the reading 'intempestivi.' As 'tempestivus' contains the element 'time,' it is obvious that the word may be used loosely. 'Tempestivus' sometimes means that the thing spoken of is at the time or season which is the right time; as in the oration De Imperio Cn. Pomp. c. 12: "nondum tempestivo ad navigandum mari." Cato (De Sen. c. 14) is made to say: "Ego vero propter sermonis delectationem tempestivis quoque conviviis delector, nec cum aequalibus solum, sed cum vestra etiam aetate." If we read the preceding chapter we infer that old Cato could even take pleasure in a prolonged banquet for the sake of the talk. The use of this word shows that it means a prolonged feast, which of course is intemperate, for people do not sit at table and do nothing. They eat and drink, and they can go on drinking long after they have done eating. It was a feast that began before the usual time, and not for the purpose of being ended the sooner. (Comp. Vol. I. Verr. ii. 3. c. 25.) So Juvenal says (i. 49):—

> "Exul ab octava Marius bibit, et fruitur Dis
> Iratis."

This was a 'tempestiva caena.' Salmasius (Florianus, by Flavius Vopiscus, p. 424) has, as usual, a note overflowing with learning on 'tempestiva convivia.' He says: "Atqui nunc doceo intempestiva convivia nulla extare in veterum libris, nisi vitio librariorum; ubicunque enim mentio fit intempestivorum, eam intempestive fieri pu-

comes est extrema saltatio. Tu mihi arripis hoc quod necesse est omnium vitiorum esse postremum: relinquis illa quibus remotis hoc vitium omnino esse non potest. Nullum turpe convivium, non amor, non comissatio, non libido, non sumptus ostenditur; et quum ea non reperiantur, quae voluptatis nomen habent, quaeque vitiosa sunt, in quo ipsam luxuriam reperire non potes, in eo te umbram luxuriae reperturum putas? Nihil igitur in vitam L. Murenae dici potest? nihil, inquam, omnino, judices. Sic a me consul designatus defenditur ut ejus nulla fraus, nulla avaritia, nulla perfidia, nulla crudelitas, nullum petulans dictum in vita proferatur. Bene habet: jacta sunt fundamenta defensionis. Nondum enim nostris laudibus, quibus utar postea, sed prope inimicorum confessione virum bonum atque integrum hominem defendimus. VII. Quo constituto, facilior est mihi aditus ad contentionem dignitatis: quae pars altera fuit accusationis.

Summam video esse in te, Servi Sulpici, dignitatem generis, integritatis, industriae ceterorumque ornamentorum omnium, quibus fretum ad consulatus petitionem aggredi par est. Paria cognosco esse ista in L. Murena, atque ita paria ut neque ipse dignitate vinci potuerit, neque te dignitate superarit. Contempsisti L. Murenae genus: extulisti tuum. Quo loco si tibi hoc sumis, nisi qui patricius sit, neminem bono esse genere natum, facis ut rursus plebes in Aventinum sevocanda esse videatur. Sin autem sunt amplae et honestae familiae plebeiae; et proavus L. Murenae et avus praetor fuit, et pater, quum amplissime atque honestissime ex praetura triumphasset, hoc faciliorem huic gradum consulatus adipiscendi reliquit, quod is jam patri debitus a filio petebatur. Tua vero

tandum est, et tempestiva reponi debere." The learned Frenchman seems to be right.

Tu mihi] Compare In Cat. ii. c. 5, note on 'qui mihi.'

umbram luxuriae] This is the dancing which follows the revelry as a shadow its substance. An uninvited guest who accompanied an invited guest came as his 'umbra:' "locus est et pluribus umbris" (Horace, Ep. i. 5. v. 28).—'Sic a me—ut:' we have no expression like this use of 'sic—ut,' and 'ita—ut.' The meaning is this, and the translation too: "I have to defend a 'consul designatus,' against whom neither fraud, nor avarice, nor treachery, nor cruelty, nor a single saucy word in the whole course of his life is produced."

laudibus,] These are the 'laudationes' I suppose of the 'laudatores' (Vol. I. Verr. ii. 5. c. 22), unless Cicero means his own praise of Murena.

7. *Quo loco*] 'Locus' refers to the sentence 'Contempsisti—tuum.'

Cicero alludes to the secession of the Plebes which produced the creation of Tribuni Plebis. They retired in "sacrum montem, trans Anienem amnem tria ab urbe millia passuum: ea frequentior fama est quam cujus Piso auctor est in Aventinum secessionem factam esse" (Livy, ii. 32).

proavus—et avus] The great grandfather of Murena was 'praetor,' and his grandfather; but the years of their praetorship are not ascertained. The father was 'praetor' probably in B.C. 87. His son Murena was the first of his family who was consul. Instead of 'praetor fuit' there is a reading 'praetores fuerunt.'

nobilitas, Servi Sulpici, tametsi summa est, tamen hominibus litteratis et historicis est notior, populo vero et suffragatoribus obscurior. Pater enim fuit equestri loco; avus nulla illustri laude celebratus. Itaque non ex sermone hominum recenti, sed ex annalium vetustate eruenda memoria est nobilitatis tuae. Quare ego te semper in nostrum numerum aggregare soleo, quod virtute industriaque perfecisti ut, quum equitis Romani esses filius, summa tamen amplitudine dignus putarere: nec mihi umquam minus in Q. Pompeio, novo homine et fortissimo viro, virtutis esse visum est quam in homine nobilissimo M. Aemilio. Etenim ejusdem animi atque ingenii est posteris suis, quod Pompeius fecit, amplitudinem nominis quam non acceperit tradere; et, ut Scaurus, memoriam prope intermortuam generis sui virtute renovare. VIII. Quamquam ego jam putabam, judices, multis viris fortibus ne ignobilitas objiceretur generis meo labore esse perfectum; qui non modo Curiis, Catonibus, Pompeiis, antiquis illis, fortissimis viris, novis hominibus, sed his recentibus, Mariis et Didiis et Caeliis comme-

litteratis] The word 'litterae' had the sense which we give to the word 'letters' in the phrase 'man of letters;' and 'litteratus' is used by Cicero to signify a man of education, such as people had in his time: "Canius nec infacetus et satis litteratus" (De Off. iii. 14).

'Historia,' a Greek word first used by Herodotus (i. 1), was now established in the Latin language, pretty nearly in the sense that we have; but the notion of History is somewhat vaguely conceived. 'Historicus' was established in Cicero's time as the word that expressed 'historiae scriptor.' (De Or. ii. 14.) Cicero (De Or. ii. 12) has some remarks on history.

Pater] The Gens Sulpicia is said to have been Patrician, but as Cicero tells us, Servius was the son of an Eques, and his grandfather was a man of no note. This is all that we know of the family of this distinguished man. He was probably born B.C. 105 or 104, and so was a year or so younger than Cicero, who calls him 'aequalis' (Brutus, c. 40). It is reckoned that he was quaestor in B.C. 74, aedile in B.C. 69, and praetor in B.C. 65. He was not elected consul till B.C. 51.

annalium vetustate] Cicero (De Or. ii. 12): "Erat enim historia nihil aliud nisi annalium confectio, cujus rei memoriaeque publicae retinendae caussa, ab initio rerum Romanarum usque ad P. Mucium Pontificem Maximum, res omnes singulorum annorum mandabat literis pontifex Maximus referebatque in album et proponebat tabulam domi, potestas ut esset populo cognoscendi; iique etiam nunc Annales Maximi nominantur." See Vol. I. Verr. ii. 4. c. 52, note on Annales.

in nostrum numerum] Cicero was of the equestrian class (municipalis eques). Q. Pompeius is the man of whom he says (Vol. I. Verr. ii. 5. c. 70, and the note) "humili atque obscuro loco natus." M. Aemilius is Scaurus, who was twice consul (B.C. 115 and 107), and raised from its low estate a family which belonged to the ancient Aemilia Gens. Cicero gives him a good character. Sallust, who knew him, and did not like him, does not speak well of the man (Jugurtha, c. 15).

8. *qui—jacebant.*] He mentions well-known names of men who had risen to the highest places. C. Marius is the most conspicuous of the three recent names that he mentions; and Cicero's countryman. The construction in this sentence may be a difficulty. Matthiae compares another passage in Cicero (De Off. i. 2): "Quis est enim qui nullis officii praeceptis tradendis philosophum se audeat dicere?" The form in '—dus' is not very easy to understand. It seems sometimes to be a kind of present participle, if we use the language of grammarians. The passage in the text means: "these men, though they could cite the names, I speak not of the Curii, Catones, Pompeii, those men of ancient times, men of the greatest merit, and the first to enno-

morandis jacebant. Quum ego vero tanto intervallo claustra ista nobilitatis refregissem, ut aditus ad consulatum posthac, sicut apud majores nostros fuit, non magis nobilitati quam virtuti pateret, non arbitrabar, quum ex familia vetere et illustri consul designatus ab equitis Romani filio consule defenderetur, de generis novitate accusatores esse dicturos. Etenim mihi ipsi accidit ut cum duobus patriciis, altero improbissimo atque audacissimo, altero modestissimo atque optimo viro, peterem; superavi tamen dignitate Catilinam, gratia Galbam. Quod si id crimen homini novo esse deberet, profecto mihi neque inimici neque invidi defuissent. Omittamus igitur de genere dicere, cujus est magna in utroque dignitas: videamus cetera.

Quaesturam una petiit, et sum ego factus prior. Non est respondendum ad omnia; neque enim quemquam vestrum fugit, quum multi pares dignitate fiant, unus autem primum solus possit obtinere, non eundem esse ordinem dignitatis et renuntiationis, propterea quod renuntiatio gradus habeat, dignitas autem sit persaepe eadem omnium. Sed quaestura utriusque propemodum pari momento sortis fuit. Habuit hic lege Titia provinciam tacitam et quietam: tu illam, cui, quum quaestores sortiuntur, etiam acclamari solet, Ostiensem, non tam gratiosam et illustrem, quam negotiosam et molestam. Consedit utriusque nomen in quaestura. Nullum

ble their families, but even though they cited the names of men of modern times, the Marii, and the Didii, and the Caelii, were still neglected." Didius was T. Didius, consul B.C. 98, a 'novus homo;' and Caelius is C. Caelius Caldus, consul B.C. 94 (De Lege Agraria, ii. 1, note).

tanto intervallo] See Vol. II. De Lege Agraria, ii. c. 1. This is the old story about himself. His election again opened, as he says, the consulship to the men of low estate. The first plebeian consul was L. Aemilius Mamercinus (Livy, vii. 1).

Galbam.] He attributes his success against Catilina to his superior merit; and against P. Sulpicius Galba to his popularity. He speaks of Galba's canvass for the consulship in a letter to Atticus (i. 1): "Prensat unus P. Galba.'

Quaesturam—prior.] Servius is supposed to say this; and Cicero on behalf of Murena replies that when several are elected to the same office, some one must be returned (renuntiatus) first. There are degrees of first and second, and so on, in the proclaiming of the names of the successful candidates, but the honour or the merit of the candidates who are elected is the same. He says, Pro Plancio, c. 6: "Sunt omnes sine macula, sunt aeque boni viri atque integri, sed servari necesse est gradus."

lege Titia] It is sometimes stated that this was a Lex enacted on the proposal of a tribune Titius, by which the number of quaestors was doubled and made eight, and other arrangements about the quaestorship were made. This may be true, but it is only a conjecture of Pighius. Servius had for his 'provincia' the town of Ostia, the port of Rome at the mouth of the Tiber, which was less valued than a provincial quaestorship. The 'acclamatio' of the people, when it was known that the lot had determined who was to have the Ostiensis, was a shout of derision, for this was a laborious office, and nothing was to be made by it. There were 'salinae' at Ostia, and the corn imported into Rome also came through it. Compare Dion Cassius (55. c. 4), and Pro Sestio, c. 17: "Saturnino, qui quod a se quaestore Ostiensi, per ignominiam ad principem et senatus et civitatis M. Scaurum rem frumentariam translatam sciebat."

Consedit] "The name of both of you

enim vobis sors campum dedit, in quo excurrere virtus cognoscique posset. Reliqui temporis spatium in contentionem vocatur. Ab utroque dissimillima ratione tractatum est. IX. Servius hic nobiscum hanc urbanam militiam respondendi, scribendi, cavendi, plenam sollicitudinis ac stomachi, secutus est: jus civile didicit: multum vigilavit, laboravit: praesto multis fuit: multorum stultitiam perpessus est, arrogantiam pertulit, difficultatem exsorbuit: vixit ad aliorum arbitrium, non ad suum. Magna laus et grata hominibus, unum hominem elaborare in ea scientia quae sit multis profutura. Quid Murena interea? Fortissimo et sapientissimo viro, summo imperatori, legatus L. Lucullo fuit; qua in legatione duxit exercitum, signa contulit, manum conseruit, magnas copias hostium fudit, urbes partim vi, partim obsidione cepit; Asiam istam refertam et eandem delicatam sic obiit ut in ea neque avaritiae neque luxuriae vestigium reliquerit; maximo in bello sic est versatus ut hic multas res et magnas sine imperatore gesserit, nullam sine hoc imperator. Atque haec quamquam praesente L. Lucullo loquor, tamen, ne ab

settled down (remained) inglorious in the quaestorship; for the lot gave you no room for your merit to move about in and to be known." Juvenal has (i. 19):

"Cur tamen hoc potius libeat decurrere campo."

A 'campus' is a field, as we say, for the display of any thing; and Cicero uses the word so. "In hoc igitur tanto tam immensoque campo quum liceat oratori vagari libere" (De Or. iii. 31).

in contentionem] We are invited to compare the two men for the time that has passed since their quaestorship.

9. *urbanam militiam*] He calls the employment of Servius an urban warfare. The occupation of the 'jurisconsultus' consisted in giving answers to cases (respondendi), writing out things in legal form (scribendi), and securing his client against risk by his caution (cavendi). In place of 'scribere' Cicero has another word in another place: "Sin autem quaereretur, quisnam jurisconsultus vere nominaretur, eum dicerem qui legum et consuetudinis ejus qua privati in civitate uterentur et ad respondendum et ad agendum et ad cavendum peritus esset" (De Or. i. 48). The troubles of the jurisconsult's life are well expressed. The words 'difficultatem exsorbuit' are difficult to translate; they mean, 'he had to swallow all their troubles.' Cicero says in a letter to his brother (Ad Q. Fr. iii. 9): "De epistola Vatinii risi. Sed me ab eo ita observari scio ut ejus ista odia non sorbeam solum sed etiam concoquam." We often swallow a thing, but the digestion is difficult. There are materials in Forcellini (v. Stomachus) for the full understanding of Stomachus. It is defined by Pliny and by Cicero (De Nat. Deor. ii. 54) to be the passage by which the food goes from the mouth to what we call the stomach; and Celsus (iv. 1) says: "Stomachus vero, qui intestinorum principium est, nervosus a septima spinae vertebra incipit, ac circa praecordia cum ventriculo committitur." But it often signifies simply the place where the food was supposed to be digested; and hence it is used to express sickness, nausea, loathing, physical and mental; or as Cicero says (Ad Atticum, iv. 16, 10): "Locus ille animi nostri, stomachus ubi habitabat olim, concalluit." So the mind has a 'stomachus,' a seat of digestion for what it takes in; and when the digestion of a thing is not easy, it is said 'facere aut movere stomachum,' to disturb it.

L. Lucullo] In the war against Mithridates. See the Introduction, and Plutarch's Life of Lucullus.

loquor,] The printed books have generally 'loquar,' the reading of all the MSS. except one. It was easy to conjecture 'loquor,' as Ernesti did, and Halm has rightly followed Ernesti. The alteration into 'loquor' will save the critics the trouble of explaining 'loquar.' Lucullus was in the court; he was one of the 'advocati'

ipso propter periculum nostrum concessam videamur habere licentiam fingendi, publicis litteris testata sunt omnia, quibus L. Lucullus tantum laudis impertit, quantum neque ambitiosus imperator neque invidus tribuere alteri in communicanda gloria debuit. Summa in utroque est honestas, summa dignitas; quam ego, si mihi per Servium liceat, pari atque eadem in laude ponam. Sed non licet. Agitat rem militarem: insectatur totam hanc legationem: assiduitatis et operarum harum quotidianarum putat esse consulatum. Apud exercitum mihi fueris, inquit, tot annos? forum non attigeris? abfueris tamdiu? et, quum longo intervallo veneris, cum his qui in foro habitarunt de dignitate contendas? Primum ista nostra assiduitas, Servi, nescis quantum interdum afferat hominibus fastidii, quantum satietatis? Mihi quidem vehementer expediit positam in oculis esse gratiam. Sed tamen ego mei satietatem magno meo labore superavi, et tu idem fortasse: verumtamen utrique nostrum desiderium nihil obfuisset. Sed ut hoc omisso ad studiorum atque artium contentionem revertamur, qui potest dubitari quin ad consulatum adipiscendum multo plus afferat dignitatis rei militaris quam juris civilis gloria? Vigilas tu de nocte ut tuis

who were invited to help Murena. Lucullus had testified his opinion of Murena by his despatches sent to the senate (literae publicae).

impertit,] Halm writes 'huic laudis impertit,' with this remark: "*Huic* quod codd. omittunt, ex conj. addidi praeeunte Lambino, qui *tantum Murenae laudis* scripserat: *tantum ei laudis* Klotzius 2." Halm writes 'impertit;' the reading of some MSS. is 'impartit.' Ernesti proposed 'impertiit,' which Halm is inclined to. I prefer the present. He indirectly praises Lucullus for being neither a seeker after popularity nor envious: he was willing to let another share in his reputation. See the explanation of 'communicare' (Vol. I. Verr. ii. 3. c. 20; Vol. II. Pro S. Rosc. Am. c. 40).

in utroque] In Murena and Sulpicius. —'agitat rem militarem:' if Servius would allow it, Cicero would be content that he and Murena should be considered equal. But Servius will not allow it: "he does not let the military art rest;" he assails it, he ridicules it. "He thinks the consulship is the reward of diligence and of this daily occupation." He speaks of the jurisconsult's occupation in disparaging terms.

Apud exercitum mihi] Compare In Cat. ii. c. 5, and the note on 'qui mihi accubantes.'

mei satietatem] "But still for my part by great exertion of my own I got the better of people's disgust." This must be compared with 'quantum satietatis.' The orator knew well that when a man is always putting himself forward, showing himself every where, people get tired of him. The hint may be useful. Cicero adds: "However it is quite true that it would have done neither of us any harm, if we had been missed for a time."

de nocte] The critics do not seem to be quite agreed about the explanation of 'de nocte.' First, it means that it is night; the night is begun. A man who is awake any part of the night, when people ought to be sleeping, is said 'vigilare de nocte.' Horace has something of this kind (Ep. i. 2. v. 32):

> "Ut jugulent homines surgunt de nocte latrones."

They get up while it is still night to do murder. Caesar and other Roman writers often use this expression (B. G. i. 12; ii. 7; vii. 45, 88). It is accordingly said by some critics that 'de nocte,' 'de die' mean that the night or the day is not yet passed. This is true; but it seems that 'de die' or 'de nocte' also means that the event spoken of takes place soon or immediately after the commencement of the day or the night. This is the opinion of the learned Salmasius

consultoribus respondeas; ille, ut eo quo intendit mature cum exercitu perveniat. Te gallorum, illum buccinarum cantus exsuscitat. Tu actionem instituis, ille aciem instruit. Tu caves ne tui consultores, ille ne urbes aut castra capiantur. Ille tenet et scit ut hostium copiae, tu ut aquae pluviae arceantur: ille exercitatus est in propagandis finibus, tu in regendis. X. Ac nimirum, dicendum est enim quod sentio, rei militaris virtus praestat ceteris omnibus. Haec nomen populo Romano, haec huic urbi aeternam gloriam peperit, haec orbem terrarum parere huic imperio coegit: omnes

(In Flavium Vopiscum Notae, p. 423); and it is certainly the meaning in the following passage of Catullus (47. v. 5),

> "Vos convivia lauta sumptuose
> De die facitis,"

where 'de die' means 'de meridie.' They began to eat at mid-day. In the expression 'media de luce' (Horace, Ep. i. 14. v. 34), and other like passages, the meaning is fixed by the adjective, and it is 'from mid-day,' and of course 'after.'

gallorum,]

> "Agricolam laudat juris legumque peritus
> Sub galli cantum consultor ubi ostia pulsat." (Horace, Sat. i. 1. v. 8.)

Livy says (vii. 35): "Ubi secundae vigiliae buccina datum signum esset, armati cum silentio ad se venirent." See Vol. I. Verr. ii. 4. c. 44. In Ovid (Met. i. 335) the 'buccina' is Triton's shell.

actionem instituis,] The 'actio' is the general term for legal procedure for the recovery of a right or for damages for an injury. The 'actio' is the proceeding of the actor or plaintiff. 'Instituere' means to arrange the action, to prepare it; to ascertain what is the demand, and what is the form in which it is to be made; to select from all the Formulae that which fits the case, for there were Formulae for all cases (Pro Roscio Com. c. 8).

tenet] This means 'mente tenet.' "The general understands and knows how to keep off the enemy's force; your knowledge and skill are employed in keeping off rain water." This is rather a frigid piece of humour, but it is not so bad in Latin as in English. 'Aqua pluvia' is the rain which falls. The rain which comes on a man's land or house must run off somewhere, if it does not sink into the earth; and the Romans had rules of law to determine the rights and duties of persons whose property was contiguous with respect to the rain water. If one man had a right to turn the dripping from his eaves on his neighbour's premises, he had a 'jus stillicidii.' There is a title in the Digest (39. 3) "De Aqua et aquae pluviae arcendae." Servius being a jurisconsult would be acquainted with the law about such matters. In a passage in the title just cited (s. 1. § 6) in an excerpt from Ulpian it is said: "Sed apud Servii auditores relatum est: si quis salicta posuerit et ob hoc aqua restagnaret, aquae pluviae arcendae agi posse, si ea aqua vicino noceret." The 'Servii auditores' is the name of a compilation made by Aufidius Namusa from some of the pupils of Servius Sulpicius. The opinion of Trebatius, also a pupil of Servius, is cited in the Digest (39. 3. 3. § 1, and 11. § 6).

propagandis—regendis.] See In Cat. ii. 5, note on 'propagarit.' Murena was employed in extending limits, Servius in regulating boundaries. The expression would be easily understood by a Roman. Cicero is again playing on words. The Actio finium regundorum (Dig. 10. tit. 1) is the legal process for settling disputes about the boundaries of contiguous estates. The Romans had many good rules about this. Quintilian, Inst. (ix. 3), has quoted two passages from this chapter: 'Vigilas tu—capiantur,' and 'Ille tenet et scit—tu in regendis.'

10. *Haec nomen*] Cicero is bantering Servius in this chapter, and we must not take it to contain his real opinions; certainly not his real opinion about the study of law. He says to Cato (De Fin. iv. 27): "Omnia peccata paria dicitis. Non ego tecum jam ita loquor ut iisdem his de rebus quum L. Murenam te accusante defenderem. Apud imperitos tum illa dicta sunt; aliquid etiam coronae datum: nunc agendum est subtilius." But he said the truth about the military art. Rome's supremacy was won by the sword, and maintained by it. To the soldier in Rome the first honour was due. For without the soldier Rome was nothing.

urbanae res, omnia haec nostra praeclara studia, et haec forensis laus et industria, latent in tutela ac praesidio bellicae virtutis. Simul atque increpuit suspicio tumultus, artes illico nostrae conticescunt.

Et quoniam mihi videris istam scientiam juris tamquam filiolam osculari tuam, non patiar te in tanto errore versari ut istud nescio quid, quod tanto opere didicisti, praeclarum aliquid esse arbitrere. Aliis ego te virtutibus, continentiae, gravitatis, justitiae, fidei, ceteris omnibus, consulatu et omni honore semper dignissimum judicavi. Quod quidem jus civile didicisti, non dicam, operam perdidisti, sed illud dicam, nullam esse in illa disciplina munitam ad consulatum viam. Omnes enim artes, quae nobis populi Romani studia conciliant, et admirabilem dignitatem et pergratam utilitatem debent habere. XI. Summa dignitas est in iis qui militari laude antecellunt; omnia enim quae sunt in imperio et in statu civitatis ab iis defendi et firmari putantur: summa etiam utilitas, siquidem eorum consilio et periculo quum re publica, tum etiam nostris rebus perfrui possumus. Gravis etiam illa est et plena dignitatis dicendi facultas, quae saepe valuit in consule deligendo, posse consilio atque oratione et senatus et populi et eorum qui res judicant mentes permovere. Quaeritur consul qui dicendo nonnumquam comprimat tribunicios furores, qui concitatum populum flectat, qui largitioni resistat. Non mirum, si ob hanc facultatem homines saepe etiam non nobiles consulatum consecuti sunt; praesertim quum haec eadem res plurimas gratias, firmissimas amicitias, maxima studia pariat: quorum in isto vestro artificio, Sulpici, nihil est. Primum

munitam—viam.] See Vol. I. Verr. ii. 3. c. 68; and Vol. II. Pro Sex. Roscio, c. 48.

11. *dicendi facultas,*] He is speaking of himself, and he hardly disguises it. Nothing is said here of Sulpicius' oratorical power, and yet it was great, as Cicero himself says (Brutus, c. 41).

eorum qui res judicant mentes] This is a common form in Cicero, like 'judiciis qui nunc sunt hominum' (Ad Q. Fr. i. 1. c. 15). Here he means 'judices.' When he speaks of resisting profusion (largitioni), I think with Camerarius that he means his opposition to the proposal of Rullus (In Rullum, Vol. II.). Manutius takes it to mean the bribery at the Comitia.

artificio,] This is not the proper word to express the lawyer's art, for it is a word that is used to denote something of manual skill, combined, it is true, with taste and talent. Cicero is depreciating the jurisconsult's profession; and he certainly did not think very highly of that part of it which lies in weighing words. It is not quite certain what he means by 'interpunctionibus verborum.' The edition of Venice, 1472, has 'interpretationibus;' but this is perhaps merely an explanation. He does not mean pointing in our sense, but he probably means such marks and abbreviations as the Romans used in writing, which would give a skilful advocate the opportunity of arguing that one word was intended and not another. The Index Siglarum in Goeschen's edition of Gaius is as an example of 'interpunctiones.' Manutius supposes Cicero to mean punctuation.—'non potest esse:' there is a reading 'quae potest esse?'

dignitas in tam tenui scientia non potest esse. Res enim sunt parvae, prope in singulis litteris atque interpunctionibus verborum occupatae. Deinde, etiam si quid apud majores nostros fuit in isto studio admirationis, id enuntiatis vestris mysteriis totum est contemptum et abjectum. Posset agi lege necne pauci quondam sciebant; fastos enim vulgo non habebant. Erant in magna potentia qui consulebantur; a quibus etiam dies tamquam a Chaldaeis petebantur. Inventus est scriba quidam Cn. Flavius qui cornicum oculos confixerit, et singulis diebus ediscendis fastos populo proposuerit, et ab ipsis caussis jurisconsultis eorum sapientiam compilarit. Itaque irati illi, quod sunt veriti ne dierum ratione pervulgata et cognita sine sua opera lege agi posset, [verba] quaedam composuerunt ut omnibus in rebus ipsi interessent.

a Chaldaeis] These astrologers were at Rome in Cicero's time. They cast nativities, told fortunes, and other things of that kind. Horace alludes to these mischievous fellows (Carm. i. 11); and Juvenal (x. 93):

> "Principis angusta Caprearum in rupe sedentis
> Cum grege Chaldaeo."

And Sat. vi. 553:

> "Chaldaeis sed major erit fiducia: quidquid
> Dixerit astrologus, credent a fonte relatum
> Hammonis."

And Gellius, xiv. 1.

Cn. Flavius] The story about Flavius is this: He was a 'scriba' or clerk to Appius Claudius Caecus, a proud patrician. At this time the patricians had the law in their hands. They were alone acquainted with the technicalities of procedure, and with the days on which any legal act could be done. It was not only the forms of actions and the formalities that must be observed, which they kept a secret, or of which they had the exclusive knowledge: there were many matters relating to the transacting of business, such as sales, manumission, and other matters, in which forms must be strictly observed, for the Romans were most rigid formalists. Flavius either stole or promulgated many forms and the rules about the days in the Kalendar (Dig. 1. 2. 2. § 7); or he got his knowledge by being employed in legal matters, and having a sharp eye for practice. This story about Flavius is not very clear. Livy (ix. 46) says that he made his publications after he was 'aedilis curulis:' "Civile jus repositum in penetralibus pontificum evulgavit, fastosque circum forum in albo proposuit ut quando lege agi posset sciretur." There is something more about Flavius in Gellius (vi. 9), and Pliny (33. c. 1), and Cicero (Ad Att. vi. 1, 8; and De Or. i. 41).

cornicum oculos] This is a proverb which means to cheat the cunning. Pro Flacco, c. 20.—'caussis—eorum:' the MSS. reading, which is unintelligible. Halm has 'capsis jureconsultorum,' Madvig's emendation. For 'caussis' some editions have 'cautis.'

verba quaedam] Halm writes 'verba,' following Niebuhr and Steinmetz. M. and some other MSS. have 'vero ac aedam,' which may be a corruption of 'verba quaedam;' some have 'vero acedam;' one has 'vero ac eadem;' another 'vere cicadam;' and G. has 'accedam,' whence Mommsen makes 'lege posset agi, quaedam.' It does not appear that there is any MSS. authority for the usual reading 'notas quasdam.' Halm merely says, "*notas quasdam* edd. priores et Orelli." But if 'notas' is difficult to explain, 'verba' is not easier. Cicero says that the "jurisconsulti being afraid that when the rules about the days were known, all legal acts and all legal procedure might take place without their assistance, composed certain things in order that they might have a part in all that was done." Klotz, following Niebuhr, says we must understand them to be "solennia verborum carmina, verba concepta." The true explanation may be that Cicero meant nothing at all; and that the alleged publication of Flavius was not followed by any new devices of the Patricians.

XII. Quum hoc fieri bellissime posset: Fundus Sabinus meus est: immo meus: deinde judicium; noluerunt. FUNDUS, inquit, QUI EST IN AGRO, QUI SABINUS VOCATUR. Satis verbose. Cedo, quid postea? EUM EGO EX JURE QUIRITIUM MEUM ESSE AIO.

12. Cicero is ridiculing the forms of legal procedure. He supposes the dispute to be about the ownership of a piece of land; and that the matter might be stated in few words: 'The fundus Sabinus is mine,' says the plaintiff: 'No, it is mine,' says the defendant; then the trial. Though it might have been done very conveniently in this way, the lawyers would not have it so. The plaintiff makes his claim in formal words, 'Fundus qui;' 'Eum ego;' 'Inde ibi.' The defendant (ille unde petebatur) knew not what to say to a suitor who used so many words; but the lawyer helped him. The lawyer was the master of the ceremonies. The man who had dictated to the plaintiff the formal words which he must utter in order to commence the suit, now steps over to the defendant and tells him what his answer must be. He changes place; he passes over to the other side like a Latin flute-player. The 'tibicen' was used on the stage, and he would play first for one speaker and then for another. He is called Latin, it is supposed, because it was not an employment for a Roman citizen (See Vol. II. De Leg. Agr. ii. 34, note on 'tibicines'). Quintilian (vii. 1, 51) says: "Transeat nunc idem ille qui cogitavit, ut ait Cicero, tibicinis Latini modo ad disertum." The praetor too was not allowed to be idle; he was not to think himself so lucky as to escape. He had his form of words prescribed by the master of the ceremonies (sapiens ille) the formalist lawyer.

The ridicule of the Roman procedure will be made intelligible by two extracts. The first is from Gellius (xx. 10, Quid vocabulum, Ex jure manum consertum, significet). The passage is long, but it is useful, and every student will not have it by him, nor understand it. "*Manum conserere* est, de qua re disceptatur, in re praesenti, *sive ager*, *sive quid aliud est*, cum adversario simul manu prendere, et in ea re omnibus verbis vindicare. Vindicia, id est, correptio manus in re atque in loco praesenti apud Praetorem ex duodecim Tabulis fiebat, in quibus ita scriptum est: SI QVI IN IVRE MANVM CONSERVNT. Sed postquam Praetores propagatis Italiae finibus, datis jurisdictionibus, negotiis occupati, proficisci vindiciarum dicendarum caussa in longinquas res gravabantur, institutum est contra Duodecim tabulas tacito consensu, ut litigantes non in jure apud Praetorem manum consererent, sed ex jure manum consertum vocarent; id est, alter alterum ex jure ad conserendam manum in rem de qua ageretur vocaret, atque profecti simul in agrum de quo litigabatur, terrae aliquid ex eo, uti unam glebam, in jus in urbem ad Praetorem deferrent, et in ea gleba tamquam in toto agro vindicarent."

The following is Savigny's exposition of Gellius (Vermischte Schriften, i. 294): Both parties were required in the presence of the praetor to make the show of a corporeal struggle about the thing that was claimed. If the thing was a moveable, it was brought before the praetor; if it was a piece of land, the praetor went with the parties to the land. This was according to the rule of the Twelve Tables. But when the praetor's jurisdiction was enlarged, this form of procedure was altered with respect to land, and the parties went from the praetor's court alone, without the praetor, to the land, brought back a clod from it into the presence of the praetor, and upon this clod acted the symbolical contest. Festus agrees with this (Festus, v. Vindiciae): "Vindiciae olim dicebantur illae (glebae?) quae ex fundo sumtae in jus allatae erant." Cicero's statement is somewhat different. He says that the parties come before the praetor, go away together, but return immediately; all this being done with the accompaniment of certain formal words, partly uttered by the parties and partly by the praetor, so that their going and returning is no reality, but a mere form.

The only genuine technical expression for this symbolical contest is 'manum conserere;' and this word is used two ways: '*in jure* manum conserere,' when the thing itself, or the representative clod, is brought before the praetor; and '*ex jure* manum consertum *vocare*,' when one party challenges the other before the praetor to go to the land. Both expressions occur in Gellius, the first from the Twelve Tables, the second only is in Cicero and in Valerius Probus.

Savigny afterwards attempts to reconcile the statements of Gellius and Cicero; but this is not material here.—The MSS. of Cicero have 'manu consertum.'

Quid tum? INDE IBI EGO TE EX JURE MANUM CONSERTUM VOCO. Quid huic tam loquaciter litigioso responderet ille unde petebatur non habebat. Transit idem jureconsultus, tibicinis Latini modo: UNDE TU ME, inquit, EX JURE MANUM CONSERTUM VOCASTI, INDE IBI EGO TE REVOCO. Praetor interea ne pulchrum se ac beatum putaret atque aliquid ipse sua sponte loqueretur, ei quoque carmen compositum est, quum ceteris rebus absurdum, tum vero in illo: SUIS UTRISQUE SUPERSTITIBUS PRAESENTIBUS ISTAM VIAM DICO: ITE VIAM. Praesto aderat sapiens ille qui inire viam doceret: REDITE VIAM. Eodem duce redibant. Haec jam tum apud illos barbatos ridicula, credo, videbantur; homines, quum recte atque in loco constitissent, juberi abire, ut unde abissent eodem statim redirent. Iisdem ineptiis fucata sunt illa omnia, QUANDO TE IN JURE CONSPICIO; et haec: [SED] ANNE TU DICIS, QUA EX CAUSSA VINDICAVERIS? quae dum erant occulta, necessario ab eis qui ea tenebant petebantur; postea vero pervulgata atque in manibus jactata et excussa, inanissima prudentiae reperta sunt, fraudis autem et stultitiae plenissima. Nam quum permulta praeclare legibus essent constituta, ea jureconsultorum ingeniis pleraque corrupta ac depravata sunt. Mulieres omnes propter infirmitatem

superstitibus praesentibus] Festus s. v.: "Superstites testes praesentes significat, cujus rei testimonium est, quod Superstitibus praesentibus ii inter quos controversia est vindicias sumere jubentur."

Iisdem] He goes on ridiculing other formal words in this action. The formula "Quando" or "Quandoque te in jure conspicio" occurs in the oration Pro Caecina, c. 19, and the notes.

qua ex caussa] "Qui caussa E. G. M. cum codd. plerisque," Halm. One MS. has 'quae caussa,' and another has 'caussam qui.' The formula is in Gaius (iv. § 16): "Qui prior vindicaverat, ita iterum interrogabat: Postulo anne dicas qua ex caussa vindicaveris." This is the question of the defendant in answer to the plaintiff's formal demand.

Nam quum permulta] Cicero makes a complaint which is true for other times. The 'leges,' the statutes, are often perverted by the ingenuity of those who interpret them. It is the fate of all written law to become a text for knaves to evade and for ingenious fools to pervert. Forms are necessary to fix the meaning of what is said and done, but the petty lawyer makes them a snare for the simple. When the formal words which were necessary were known only to a few, they had the rest of the people in their hands. But when these old antiquated forms were handled and well shaken (in manibus jactata et excussa), they were found to be most empty in meaning, but right full of knavery and absurdity.

Mulieres — propter] "Tutores constituuntur tam masculis quam feminis: sed masculis quidem impuberibus duntaxat propter aetatis infirmitatem; feminis autem [tam] impuberibus quam puberibus et propter sexus infirmitatem et propter forensium rerum ignorantiam" (Ulpian, Fr. Tit. xi.). The object of this rule was to protect women's property, and particularly to prevent it going out of the family. (Compare Cicero, Pro Flacco, c. 34; Pro Caecina, c. 25; Livy, 34. c. 2; Gaius, i. 190. 192.) The jurists however invented a way of releasing a woman from the 'tutela' (Gaius, i. 114): "Quae vero alterius rei caussa facit coemptionem cum extraneo, velut tutelae evitandae caussa, dicitur fiduciae caussa fecisse coemptionem."

Savigny explains this passage: "The 'Senes ad coemptiones faciendas reperti' were old men, with whom a strict marriage (in manu) was contracted merely to get rid of the Sacra. However the same formality might be used to release the woman from

consilii majores in tutorum potestate esse voluerunt: hi invenerunt genera tutorum quae potestate mulierum continerentur. Sacra interire illi noluerunt: horum ingenio senes ad coemptiones faciendas interimendorum sacrorum caussa reperti sunt. In omni denique jure civili aequitatem reliquerunt, verba ipsa tenuerunt; ut, quia in alicujus libris, exempli caussa, id nomen invenerant, putarent omnes mulieres quae coemptionem facerent Caias vocari. Jam

the restraint of the Tutela legitima. If for instance a father wished to secure this liberty to his daughter, he needed only to marry her to an old man according to the law of the strict marriage, though it was merely a form: the husband however must not separate himself from the wife, but he must give her the Tutoris optio by his testament, and it was precisely for this reason that an old man was absolutely necessary. This connexion between the Tutoris optio and the Senes is rendered still further probable by the fact that Cicero puts these two things in immediate juxtaposition. Thus also it becomes quite clear, how Cicero can ascribe the origin of the Tutoris optio to the invention of the Jurists (Geschichte der Geschlechtstutel, Vermischte Schriften, Vol. i.).

This remark will prepare the way for the explanation of the next sentence. In the Roman religion there were religious rites (sacra) which private persons were bound to perform, and these 'sacra' called 'sacra privata' to distinguish them from 'sacra publica' were under the superintendence of the Pontifices. If a Roman vowed certain offerings, and these were approved by the Pontifices, he was for ever bound to perform them (Cicero, Pro Domo, c. 51; De Legg. ii. 19). But to secure this perpetuity, it was necessary to make this obligation not so much personal as attached to property, and to consider it as passing with the property after death from one person to another. Such an obligation was only attached to Quiritarian ownership. An 'hereditas sine sacris' would be a more desirable thing than one with them; and the lawyers devised means of freeing persons from the obligation of the Sacra. (Savigny, Ueber die juristische Handlung der Sacra Privata bei den Römern, &c., Vermischte Schriften, Vol. i.)

Savigny supposes, for example, a rich heiress, who with her father's property had also received Sacra, from which she wished to relieve herself. For this purpose she made a marriage by 'coemptio' with an old man, the consequence of such form of marriage being that the whole property, as in the case of succession to an 'hereditas,' passed over to the man, and with the property consequently also the Sacra (Cicero, Topica, c. 4). Immediately after the man separated himself by 'remancipatio,' and gave the property back to the woman by its several parts, by which return the condition of the Sacra was not changed again, for they were attached to the whole (the Universitas). For the purpose of this return being made, the man might be bound, as a precautionary measure, by 'stipulationes,' which might be made with him by relations or friends of the wife; for she herself could not make the 'stipulationes,' because her rights against the man would have been destroyed by the 'coemptio.' The old man kept the Sacra as long as he lived; and received good pay for that purpose without doubt. As a matter of course an old man was chosen who would die childless, so that by his death the Sacra would perish for ever. The reason for choosing this form of marriage was this, because in no other way could a woman who was independent come into the Patria potestas; for Adrogation was then and long continued to be impossible in the case of women. It is assumed all through this explanation that Sacra Privata are meant and not Sacra Gentilitia. This is Savigny's ingenious explanation. I know no other that seems to be probable.

putarent — Caias] '*putarunt*, ed. Asc. 1511: *putarent* mei, 5 Oxx.' Halm. He has 'putarunt.' As the passage in Gaius shows (i. 114) 'coemptio' was used for other purposes besides marriage; but Cicero here means the 'coemptio' or form of sale by which a woman came 'in manum viri:' "Coemptione in manum conveniunt per mancipationem, id est, per quandam imaginariam venditionem" (Gaius, i. 113). When the bride was brought into the husband's house, she said in answer to the question who she was: "Where you are Caius, I am Caia;" which was said to mean, "Where you are master, I am mistress." Plutarch (Quaestiones Romanae, 30) has something about this matter. Quintilian (Inst. i. 7.

illud mihi quidem mirum videri solet, tot homines, tam ingeniosos, per tot annos etiam nunc statuere non potuisse, utrum diem tertium an perendinum, judicem an arbitrum, rem an litem dici oporteret. XIII. Itaque, ut dixi, dignitas in ista scientia consularis numquam fuit, quae tota ex rebus fictis commentitiisque constaret; gratiae vero multo etiam minores. Quod enim omnibus patet et aeque promptum est mihi et adversario meo, id esse gratum nullo pacto potest. Itaque non modo beneficii collocandi spem, sed etiam illud quod aliquamdiu fuit, LICET CONSULERE? jam perdidistis. Sapiens existimari nemo potest in ea prudentia, quae neque extra Romam usquam, neque Romae rebus prolatis quidquam valet. Peritus ideo haberi nemo potest, quod in eo quod sciunt omnes nullo modo possunt inter se discrepare. Difficilis autem res ideo non putatur, quod et perpaucis et minime obscuris litteris continetur. Itaque si mihi homini vehementer occupato stomachum moveritis, triduo me esse jurisconsultum profitebor. Etenim quae de scripto agun-

29): "Nam et Gaius C litera notatur, quae inversa Ɔ mulierem declarat, quia tam Caias esse vocitatas quam Caios etiam ex nuptialibus sacris apparet."

diem tertium an perendinum,] 'Perendinus' was the usual legal name for the third day. In settling the 'vadimonium,' the third day from the day on which it was settled was the day on which the parties were to appear again in court. A story in Gellius (vii. 1) about P. Scipio Africanus the elder explains this. Scipio was seated before a strong town in Spain, and there was little hope of taking it: "Quodam die jus in castris sedens dicebat, atque ex eo loco id oppidum procul videbatur. Tum e militibus, qui in jure apud eum stabant, interrogavit quispiam ex more in quem diem locumque vadimonium promitti juberet; et Scipio manum ad ipsam oppidi quod obsidebatur arcem protendens, Perendie, inquit, sese sistant illo in loco: atque ita factum. Die tertio in quem vadari jusserat oppidum captum est, eodemque die in arce ejus oppidi jus dixit."

judicem an arbitrum,] The lawyers could easily have explained to Cicero the difference between these two words, and he knew there was a difference (Vol. I. Excursus 'Judicia'), but he chooses to make merry with their language.

13. *gratiae—minores.*] The MSS. reading, Halm has 'gratiae—minus' after the ed. Crat. 1528.

Licet] 'Licet consulere' was once the polite way of asking a jurisconsult for his opinion. Now that form of politeness was gone. When the courts were closed (rebus prolatis), nobody wanted the lawyer.

> "Ubi res prolatae sunt quum rus homines eunt,
> Simul prolatae res sunt nostris dentibus."
>
> (Plautus, Capt. i. 1. 10.)

perpaucis—litteris] Few books on law then, but in a short time the Romans had plenty of them. In modern times law books, books on theology, and books of medicine, the books for the three learned professions, as they are called, have buried us beneath a heap of rubbish. The number of useless books, says a witty French writer, is so immense, the whole life of a man would not suffice to make a catalogue of them.

In another place (De Or. i. 43) Cicero says of the law: "Omnia enim sunt posita ante oculos, collocata in usu quotidiano, in congressione hominum atque in foro; neque ita multis litteris aut voluminibus magnis continentur. Eadem enim sunt elata primum a pluribus; deinde, paucis verbis commutatis etiam ab iisdem scriptoribus scripta sunt saepius." He has well described modern law books, where we find the same thing said over and over again.

de scripto aguntur,] The word 'aguntur' refers to what is done on the trial (in judiciis). So he says: "As to every thing on the trial which is done from writing, it is already all written." He means the 'formulae' of the 'actiones' and the procedure;

tur, scripta sunt omnia; neque tamen quidquam tam anguste scriptum est, quo ego non possim, QUA DE RE AGITUR, addere. Quae consuluntur autem minimo periculo respondentur. Si id quod oportet responderis, idem videare respondisse quod Servius; sin aliter, etiam controversum jus nosse et tractare videare. Quapropter non solum illa gloria militaris vestris formulis atque actionibus anteponenda est, verum etiam dicendi consuetudo longe et multum isti vestrae exercitationi ad honorem antecellit. Itaque mihi videntur plerique initio multo hoc maluisse; post, quum id assequi non potuissent, istuc potissimum sunt delapsi. Ut aiunt in Graecis artificibus, eos auloedos esse qui citharoedi fieri non potuerint, sic nonnullos videmus, qui oratores evadere non potuerint, eos ad juris studium devenire. Magnus dicendi labor, magna res, magna dignitas, summa autem gratia. Etenim a vobis salubritas quaedam; ab iis qui dicunt salus ipsa petitur. Deinde vestra responsa atque decreta et evertuntur saepe dicendo, et sine defensione oratoris firma esse non possunt; in qua si satis profecissem, parcius de ejus laude dicerem: nunc nihil de me dico, sed de iis qui in dicendo magni sunt aut fuerunt.

and he adds, "nothing is drawn up in such concise terms to which I cannot add a Qua de re agitur;" one of the most usual Roman legal expressions which Cicero is laughing at. (Introduction to the oration Pro Caecina, Vol. II.; and Cicero, Brutus, c. 79.)

Quae consuluntur] "But when a man comes to ask my advice on a matter of law." He has made two divisions of the jurisconsult's business; one to supply the proper 'formulae' for a trial; the other to give his advice on a legal question. If Cicero gives a right opinion, he will be on the same side as Servius; by saying which he intends to pay Servius an indirect compliment. If he should be wrong, he will be supposed to be acquainted with the disputed points of law and to have handled them. In the oration Pro Caecina, c. 24 (Vol. II.) there is the expression 'jus varium.'

antecellit.] 'M. *antecellet*, codd. rel.' Halm. Moebius, who prefers 'antecellet,' says: "The fut. instead of 'antecellit,' a usual Ciceronian expression, which, as in Greek, contains also a delicate turn of the categorical form which is purposely avoided."

Ut aiunt—devenire.] Quoted by Quintilian, Inst. viii. 3. 79. In the first part of this sentence some editions have 'potuerint,' and in the second place they have 'potuerunt.' Both are Latin; but the sense is not quite the same. The difference between 'evadere non potuerunt' and 'evadere non potuerint' is the difference between a direct negation (non potuerunt), which is not intended, for there are no definite persons to whom the negation will apply, and a negation which expresses a possibility (non potuerint), the possibility of their not succeeding.

Cicero is right when he says that it is easier to become a lawyer than an orator, an orator as he understood oratory. A lawyer requires only industry and good sense. Any other quality is not wanted, and is an impediment with some men. Many of the best lawyers are slow, laborious men, without taste, or imagination, or passion; but they have a sound judgment. An orator requires more than a lawyer; some natural gifts, a good voice, animation, taste, and readiness. But he must have industry too, knowledge and judgment, or he will be merely an idle talker. Cicero himself tells us in his Brutus what a laborious study oratory was to him (c. 91).—'salus ipsa:' see Vol. I. Verr. ii. 3. c. 57; and Vol. II. Pro Fonteio, c. 10.

in qua si satis] 'qua' refers to 'defensione,' but in substance to the 'facultas dicendi.'

XIV. Duae sunt artes, quae possunt locare homines in amplissimo gradu dignitatis; una imperatoris, altera oratoris boni: ab hoc enim pacis ornamenta retinentur, ab illo belli pericula repelluntur. Ceterae tamen virtutes ipsae per se multum valent, justitia, fides, pudor, temperantia; quibus te, Servi, excellere omnes intelligunt: sed nunc de studiis ad honorem dispositis, non de insita cujusque virtute disputo. Omnia ista nobis studia de manibus excutiuntur, simul atque aliqui motus novus bellicum canere coepit. Etenim, ut ait ingeniosus poeta et auctor valde bonus, praeliis promulgatis,

Pellitur e medio

non solum ista vestra verbosa simulatio prudentiae, sed etiam ipsa illa domina rerum

sapientia: vi geritur res;

Spernitur orator,

non solum odiosus in dicendo ac loquax, verum etiam

bonus: horridus miles amatur:

vestrum vero studium totum jacet.

Non ex jure manum consertum, sed mage ferro, inquit,
Rem repetunt.

Quod si ita est, cedat, opinor, Sulpici, forum castris, otium militiae, stilus gladio, umbra soli: sit denique in civitate ea prima res, propter quam ipsa est civitas omnium princeps. Verum haec Cato nimium nos nostris verbis magna facere demonstrat, et oblitos esse bellum illud omne Mithridaticum cum mulierculis esse gestum.

14. *Duae sunt artes,*] Arms and eloquence raised a man to the honours of the Roman state. Arms in modern times are still the surest way to the highest honours, but the road is laborious and fortune must be favourable. Eloquence also in the few free states that exist can elevate a man; but true eloquence is rare. The lawyer now winds his way to the highest places, without eloquence, without the power of expressing himself any better than an ordinary man. There is a third way by which men now rise to political rank, by knowledge of political affairs, combined with intrigue and a well-calculated subserviency to those who have the power to raise them.

ingeniosus poeta] The poet of genius is Ennius, whom Cicero often quotes. When Cicero says 'praeliis promulgatis,' he is using the word purposely in an improper sense. (Vol. II. Verr. ii 3. c. 71.) The whole passage of Ennius is quoted by Gellius (xx. 10):—

"Pellitur e medio sapientia, vi geritur res.
Spernitur orator bonus, horridus miles amatur.
Haud doctis dictis certantes, sed maledictis,
Miscent inter sese inimicitias agitantes.
Non ex jure manum consertum, sed mage ferro
Rem repetunt regnumque petunt, vadunt solida vi."

Mithridaticum] See the speech De Imperio Cn. Pompeii, Vol. II. Cicero here

Quod ego longe secus existimo, judices, deque eo pauca disseram, neque enim caussa in hoc continetur.

Nam si omnia bella quae cum Graecis gessimus contemnenda sunt, derideatur de rege Pyrrho triumphus M'. Curii, de Philippo T. Flaminini, de Aetolis M. Fulvii, de rege Perse L. Paulli, de Pseudophilippo Q. Metelli, de Corinthiis L. Mummii. Sin haec bella gravissima victoriaeque eorum bellorum gratissimae fuerunt, cur Asiaticae nationes, atque ille a te hostis contemnitur? Atqui ex veterum rerum monumentis vel maximum bellum populum Romanum cum Antiocho gessisse video; cujus belli victor L. Scipio, [si qua] parta cum Publio fratre gloria, quam laudem ille Africa oppressa cognomine ipso prae se ferebat, eandem hic sibi ex Asiae nomine assumpsit. Quo quidem in bello virtus enituit egregia M. Catonis, proavi tui; quo ille quum esset, ut ego mihi statuo, talis qualem te esse video, numquam cum Scipione esset profectus, si cum mulierculis bellandum esse arbitraretur. Neque vero cum P. Africano senatus egisset ut legatus fratri proficisceretur, quum ipse paullo ante, Hannibale ex Italia expulso, ex Africa ejecto, Karthagine oppressa, maximis periculis rem publicam liberasset, nisi illud grave bellum et vehemens putaretur. XV. Atqui si diligenter, quid Mithridates potuerit, et quid effecerit, et qui vir fuerit, consideraris, omnibus regibus, quibuscum populus Romanus bellum gessit, hunc [regem] nimirum antepones; quem L. Sulla, maximo et fortissimo exercitu, pugnax et acer et non rudis imperator, ut aliud nihil

enumerates the great wars of the Romans with Greek states and Greek kings. The first that he mentions is the war with the chivalrous Epirot king, Pyrrhus, who invaded Italy, and the triumph of Curius over him for the final victory gained by the Romans in B.C. 274. This was in the heroic age of Rome. The destruction of Corinth by Mummius was a barbarous act committed by the debased republic (Vol. II. De Lege Agrar. ii. 32).—'bellorum gratissimae:' the reading of two MSS. The rest have 'gravissimae.'

Antiocho] He was a formidable enemy, bold, active, and possessed of immense resources. He was defeated (B.C. 190) near Magnesia at the foot of Sipylus. L. Scipio had a triumph for his victory and the title Asiaticus. In this war his brother, Publius, surnamed Africanus, who defeated Hannibal at Zama, served as a legatus under Lucius, after Roman fashion.—'[si qua] parta:' 'acquiparata,' Madvig, Halm.

M. Catonis,] This is the censor, the great grandfather of this Cato. His life is written by Plutarch.—'cum Scipione:' Cato went in B.C. 191 with the consul M'. Acilius Glabrio into Greece to oppose Antiochus there, and he was sent by Glabrio to Rome to carry the news of the victory at Thermopylae and the success of the campaign (Liv. 36. c. 21). L. Scipio consul went into Asia to oppose Antiochus in B.C. 190 (Liv. 37. c. 1). Livy says nothing of Cato accompanying Scipio. Accordingly some critics would erase 'cum Scipione;' others would put 'cum Glabrione' in place of it; and Moebius would explain it to mean 'pariter atque Scipio.' But Cicero says that Cato was in the war in Asia, 'quo quidem in bello;' and if the text is right, and the fact is true, all we can say is that Livy does not mention it. See De Sen. c. 10.

15. *Mithridates*] The chapter should be compared with the oration De Imp. Cn. Pompeii, and the Introduction Vol. II.

pugnax et acer et] Niebuhr's ingenious conjecture. The readings are certainly cor-

dicam, bello invectum totam in Asiam cum pace dimisit; quem L. Murena, pater hujusce, vehementissime vigilantissimeque vexatum, repressum magna ex parte, non oppressum reliquit; qui rex, sibi aliquot annis sumptis ad confirmandas rationes et copias belli, tantum spe conatuque valuit ut se Oceanum cum Ponto, Sertorii copias cum suis conjuncturum putaret. Ad quod bellum duobus consulibus ita missis ut alter Mithridatem persequeretur, alter Bithyniam tueretur, alterius res et terra et mari calamitosae vehementer et opes regis et nomen auxerunt; L. Luculli vero res tantae exstiterunt ut neque majus bellum commemorari possit, neque majore consilio et virtute gestum. Nam quum totius impetus belli ad Cyzicenorum moenia constitisset, eamque urbem sibi Mithridates Asiae januam fore putasset, qua effracta et revulsa tota pateret provincia, perfecta ab Lucullo haec sunt omnia, ut urbs fidelissimorum sociorum defenderetur et omnes copiae regis diuturnitate obsessionis consumerentur. Quid, illam pugnam navalem ad Tenedum, quum contento cursu, acerrimis ducibus, hostium classis Italiam spe atque animis inflata peteret, mediocri certamine et parva dimicatione commissam arbitraris? Mitto praelia; praetereo oppugnationes oppidorum; expulsus regno tandem aliquando, tantum tamen consilio atque auctoritate valuit, ut se rege Armeniorum adjuncto novis opibus copiisque renovarit. XVI. Ac si mihi nunc de rebus gestis esset nostri exercitus imperatorisque dicendum, plurima et maxima praelia commemorare possem. Sed non id agimus. Hoc dico: si bellum hoc, si hic hostis, si ille rex contemnendus fuisset, neque tanta cura senatus et populus Romanus suscipiendum putasset, neque tot annos gessisset neque tanta gloria

rupt. There is a reading 'pugna excitatum,' but it seems to offer a poor sense. Ernesti thinks that it means that Mithridates was roused by the defeat of his general Archelaus at Chaeronea in Boeotia by Sulla B.C. 87 (Plutarch, Sulla, c. 16; Appian, Mithrid. 42—47).

bello invectum] "*cum bellum invectum totam* codices nisi quod 4 Oxonn. *bello* habere dicuntur." Halm. Niebuhr proposes 'cum bellum invexisset totum.' Halm has 'cum bello.'

cum pace dimisit;] Sulla crossed the Hellespont and came to terms with Mithridates, for he was in a hurry to get back to Italy (Plutarch, Sulla, c. 16; De Imp. Cn. Pomp. Introduction, Vol. II.).

L. Murena,] Murena began the second Mithridatic war to get a triumph, which he did get without deserving it. Vol. II. Introd. to the oration De Imp. Cn. Pomp.—'spe conatuque,' Klotz. The MSS. have 'ipse conatu.'—'Sertorii:' De Imp. Cn. Pomp. c. 4.

duobus consulibus] M. Aurelius Cotta consul had charge of Bithynia, but Cotta disgraced himself by his cowardice and want of skill. (De Imp. Cn. Pomp. Introd.) Lucullus had the conduct of the war against Mithridates, which he began by relieving Cyzicus which was blockaded by Mithridates (De Imp. Cn. Pomp.). The fight off Tenedus is mentioned in the oration De Imp. Cn. Pomp. c. 8: "classem magnam et armatam—superatam esse et depressam;" and Pro Archia, c. 9.

rege Armeniorum] Tigranes, the son-in-law of Mithridates. See De Imp. Cn. Pompeii, c. 9.

L. Luculli; neque vero ejus belli conficiendum exitum tanto studio populus Romanus ad Cn. Pompeium detulisset, cujus ex omnibus pugnis, quae sunt innumerabiles, vel acerrima mihi videtur illa quae cum rege commissa est et summa contentione pugnata. Qua ex pugna quum se ille eripuisset, et Bosporum confugisset, quo exercitus adire non posset, etiam in extrema fortuna et fuga nomen tamen retinuit regium. Itaque ipse Pompeius, regno possesso, ex omnibus oris atque notis sedibus hoste pulso, tamen tantum in unius anima posuit, ut, quum omnia quae ille tenuerat, adierat, sperarat, victoria possideret, tamen non ante quam illum vita expulit, bellum confectum judicarit. Hunc tu hostem, Cato, contemnis, quocum per tot annos tot praeliis tot imperatores bella gesserunt? cujus expulsi et ejecti vita tanti existimata est ut morte ejus nuntiata tum denique bellum confectum arbitraretur? Hoc igitur in bello L. Murenam, legatum fortissimi animi, summi consilii, maximi laboris cognitum esse defendimus, et hanc ejus operam non minus ad consulatum adipiscendum quam hanc nostram forensem industriam dignitatis habuisse.

XVII. At enim in praeturae petitione prior renuntiatus est Servius.—Pergitisne vos, tamquam ex syngrapha, agere cum populo ut, quem locum semel honoris cuipiam dederit, eundem reliquis honoribus debeat? Quod enim fretum, quem Euripum tot motus, tantas, tam varias habere putatis agitationes fluctuum, quantas perturbationes et quantos aestus habet ratio comitiorum? Dies intermissus aut nox interposita saepe perturbat omnia, et totam opinionem parva nonnumquam commutat aura rumoris. Saepe

16. *L. Luculli:*] '*Lucullus* Mommsenius,' Halm, who follows him. But 'L. Luculli' is the reading of all the MSS. except three which omit it. He is not speaking of Lucullus, but of the senate; "nor would the Senate have carried on the war for so many years nor with such great glory to Lucullus."—'pugnis:' he appears to allude to the battle in the night near the Euphrates, which Plutarch has described (Pomp. 32; Dion Cassius 36. c. 32; Appian, Mithrid. c. 99).

Bosporum] The south eastern part of the Crimea. Compare De Imp. Cn. Pomp. c. 4. —'arbitraretur:' this is the MSS. reading. Lambinus altered it to 'arbitraremur,' and Halm and others approve the alteration. In the Verrines (Vol. I. Verr. ii. 5. c. 41) Halm says that the reading 'arbitraretur' is false, but it is still kept in the second edition of Orelli's Cicero.

17. *At enim*] Another supposed objection of Servius. In the election for the Praetorship Servius was returned as elected before Murena. But Cicero rejoins: "are you going to call the people to account as if you had a written contract to sue them on." See Vol. I. Verr. ii. 1. c. 36, 'Syngrapha;' and Vol. I. Verr. Act i. c. 12, on 'agere cum populo.'—'in reliquis,' Halm.

Euripum] The channel between Boeotia and the island of Euboea in which there is a constant but irregular flowing of the water backwards and forwards. (Livy 28. c. 26.) The phaenomenon has been carefully observed in modern times, but the movements of the water cannot be reduced to any rule. They are as irregular as Cicero describes them to be, as irregular as popular opinion.—'aura rumoris:' a breeze of rumour, something like Horace's 'popularis aura.'

etiam sine ulla aperta caussa fit aliud aqtue existimaris, ut nonnumquam ita factum esse etiam populus admiretur; quasi vero non ipse fecerit. Nihil est incertius vulgo, nihil obscurius voluntate hominum, nihil fallacius ratione tota comitiorum. Quis L. Philippum summo ingenio, opera, gratia, nobilitate, a M. Herennio superari posse arbitratus est? quis Q. Catulum, humanitate, sapientia, integritate antecellentem, a Cn. Mallio? quis M. Scaurum, hominem gravissimum, civem egregium, fortissimum senatorem, a Q. Maximo? Non modo horum nihil ita fore putatum est, sed ne quum esset factum quidem quare ita factum esset intelligi potuit. Nam ut tempestates saepe certo aliquo caeli signo commoventur, saepe improviso nulla ex certa ratione, obscura aliqua ex caussa concitantur, sic in hac comitiorum tempestate populari saepe intelligas quo signo commota sit; saepe ita obscura est ut casu excitata esse videatur. XVIII. Sed tamen, si est reddenda ratio, duae res vehementer in praetura desideratae sunt, quae ambae in consulatu Murenae profuerunt: una, exspectatio muneris, quae et

L. Philippum] He was consul with S. Julius Caesar in B.C. 91, but he had lost his election on a former occasion. Q. Catulus was the colleague of Marius B.C. 102, and assisted in the defeat of the Cimbri and Teutones B.C. 101. The election of Cn. Mallius and the rejection of Catulus are mentioned in the oration Pro Plancio, c. 5. There is the usual discrepancy here about the name of Mallius, which some of the best MSS. have: others have Manilius, and some have Manlius. Moebius in his note, which is taken from others, says that we must read 'Mallio' here, because the family of the Manlii was renowned, but that of the Mallii was of no note. Besides, he says, the name Mallius appears in the MSS., and on a marble slab found at Puteoli (Pighius, Annal. iii. p. 145), and a similar permutation occurs in the orations against Catilina (In Cat. i. 3). This Manlius, or Manilius, or Mallius was consul in B.C. 105 with P. Rutilius Rufus. The praenomen of this man as well as his gentile name is uncertain (Clinton, Fasti, B.C. 105). Manlius was defeated by the Cimbri (Liv. Ep. 67), or the Galli as Sallust says (Jug. c. 113, 114).

M. Scaurus was the father of the Scaurus in defence of whom Cicero delivered an oration, a fragment of which is extant.

Nam ut—excitata esse videatur.] This passage is quoted by Quintilian (Inst. viii. 3. 80) as an example of poetic style, "jam paene poetico spiritu."

18. *duae res—desideratae*] Two things failed Murena when he was a candidate for the praetorship, but the same two things helped him when he was a candidate for the consulship. One was the fact that when Murena was a candidate for the praetorship, the army of Lucullus, which had been the witness of his liberality and merit in Asia, had not returned to Rome. But the army was present when he was a candidate for the consulship, and he was elected and Servius was rejected. The other thing which helped Murena in his election for the consulship was the 'munus,' the public shows which he gave in his praetorship. Murena was Praetor urbanus (c. 20). It was the business of the Praetor urbanus to superintend the celebration of the Ludi Apollinares (Livy 27. c. 23). But if the Ludi Apollinares were regularly superintended by the Praetor urbanus, the words 'expectatio muneris—creverat' has no meaning; and it is conjectured that the 'munus' was a show of gladiators, or something extraordinary. Moebius observes, that as Murena had not been Aedilis, he could not have given any public shows, and when he was a candidate for the praetorship, he had done nothing to please the people. It was all to come, and it was all in expectation; but he satisfied the expectation in his praetorship, and so he secured his election in his canvass for the consulship: "Quod petitio praeturae desiderabat, praetura restituit."

rumore nonnullo, et studiis sermonibusque competitorum creverat; altera, quod ii, quos in provincia ac legatione omnis et liberalitatis et virtutis suae testes habuerat, nondum decesserant. Horum utrumque ei fortuna ad consulatus petitionem reservavit. Nam et L. Luculli exercitus, qui ad triumphum convenerat, idem comes L. Murenae praesto fuit: et munus amplissimum, quod petitio praeturae desiderabat, praetura restituit. Num tibi haec parva videntur adjumenta et subsidia consulatus? voluntas militum? quae quum per se valet multitudine, quum apud suos gratia, tum vero in consule declarando multum etiam apud universum populum Romanum auctoritatis habet suffragatio militaris; imperatores enim comitiis consularibus, non verborum interpretes deliguntur. Quare gravis est illa oratio, "Me saucium recreavit: me praeda donavit: hoc duce castra cepimus, signa contulimus: numquam iste plus militi laboris imposuit quam sibi sumpsit ipse; quum fortis, tum etiam felix." Hoc quanti putas esse ad famam hominum ac voluntatem? Etenim si tanta illis comitiis religio est ut adhuc semper omen valuerit praerogativum, quid mirum est in hoc felicitatis famam sermonemque valuisse?

XIX. Sed si haec leviora ducis, quae sunt gravissima, et hanc urbanam suffragationem militari anteponis, noli ludorum hujus elegantiam et scenae magnificentiam valde contemnere; quae huic admodum profuerunt. Nam quid ego dicam populum ac vulgus imperitorum ludis magno opere delectari? Minus est mirandum. Quamquam huic caussae id satis est; sunt enim populi ac multitu-

comes] This is the MSS. reading, for which Hotmann substituted 'comitiis,' which Lambinus accepted, and the editors have generally followed. I see no reason at all for the alteration. Why could not Lucullus' army, which had come together to witness his triumph, be present also to accompany Murena, and be his comrades again? At his election of course, for that is meant, and so plainly meant that to say it is superfluous.

verborum interpretes,] The 'jurisconsulti,' whose office Cicero is purposely disparaging. They are 'the interpreters of words,' the men whose talk and opinions turn mainly on the meaning of words.

omen—praerogativum,] It was determined by lot which 'centuria' should vote first; and as the lot was supposed to indicate the choice of the gods, the vote of the first 'centuria' was generally followed by the rest. It was an omen. Cicero speaks of this again in his oration Pro Plancio, c. 20: "An tandem una centuria praerogativa tantum habet auctoritatis, ut nemo unquam prior eam tulerit quin renuntiatus sit?"

19. *scenae magnificentiam*] Pliny (33. c. 16) has preserved a story of the magnificence of Murena's scenic exhibitions: "C. Antonius ludos scena argentea fecit. Item L. Murena et Caius princeps in circo pegma duxit, in quo fuere argenti pondo cxxiiv." C. Antonius is the Antonius who was Cicero's colleague in the consulship. Caius is the emperor Caligula. The Pegma is described by Seneca (Ep. 88): "His annumeres machinatores qui pegmata ex se surgentia excogitant, et tabulata tacite in sublime crescentia, et alias ex inopinato varietates; aut dehiscentibus quae cohaerebant, aut quae distabant sua sponte cohaerentibus, aut iis quae eminebant paulatim in se residentibus."

dinis comitia. Quare si populo ludorum magnificentia voluptati est, non est mirandum eam L. Murenae apud populum profuisse. Sed si nosmetipsi, qui et ab delectatione omni negotiis impedimur, et in ipsa occupatione delectationes alias multas habere possumus, ludis tamen oblectamur et ducimur, quid tu admirere de multitudine indocta? L. Otho, vir fortis, meus necessarius, equestri ordini restituit non solum dignitatem sed etiam voluptatem. Itaque lex haec, quae ad ludos pertinet, est omnium gratissima, quod honestissimo ordini cum splendore fructus quoque jucunditatis est restitutus. Quare delectant homines, mihi crede, ludi etiam illos qui dissimulant, non solum eos qui fatentur; quod ego in mea petitione sensi. Nam nos quoque habuimus scenam competitricem. Quod si ego, qui trinos ludos aedilis feceram, tamen Antonii ludis commovebar, tibi, qui casu nullos feceras, nihil hujus istam ipsam quam irrides argenteam scenam adversatam putas? Sed haec sane sint paria omnia: sit par forensis opera militari: sit par militari suffragatio urbana: sit idem magnificentissimos et nullos umquam fecisse ludos. Quid in ipsa praetura, nihilne existimas inter tuam et hujus sortem interfuisse?

XX. Hujus sors ea fuit, quam omnes tui necessarii tibi optabamus, juris dicundi; in qua gloriam conciliat magnitudo negotii,

L. Otho,] L. Roscius Otho a tr. pl. proposed and carried a Lex Theatralis in B.C. 74, by which it was enacted that no man should sit in the fourteen benches next to the orchestra unless he was an 'eques,' or had the fortune of an 'eques.' The senators sat in the orchestra. Cicero here tells us twice that this seat was restored to the 'equites' by the Lex Roscia; and Velleius (ii. 32) has the same expression. This Lex caused a great disturbance in Cicero's consulship, which he quieted in a speech which is lost (Ad Att. ii. 1). Plutarch (Cicero, c. 13): "In former times those of the equestrian class were mingled with the crowd in the theatre, and were spectators among the people, just as chance would have it; but M. Otho in his praetorship was the first who for sake of distinction separated the equites from the rest of the citizens and gave them a particular place, which they still retain. The people took this as a disparagement of themselves, and when Otho appeared in the theatre, they hissed for the purpose of insulting him, but the equites received him with loud applause." There are two mistakes in this passage. Otho's name was Lucius, and he was a 'tribunus plebis' when he got this Lex enacted.

scenam competitricem.] C. Antonius had in his aedileship made a magnificent display (Valerius Maximus, ii. 4. 6), as we have just seen by the passage quoted from Pliny. Plutarch says of Cicero (Cicero, c. 7), that "he had only a small property, though sufficient and adequate to his expenses." Cicero (De Off. ii. 17) says that the expense of his aedileship was small.—'sit—urbana:' 'militaris suffragatio urbanae,' Halm.

20. *sors—juris dicundi;*] The lot gave to Murena the 'urbana jurisdictio;' or as Livy (33. c. 21) expresses it: "Praetore cujus jurisdictio inter cives erat." Cicero mentions the qualities necessary in a Praetor urbanus, equity in his decision, gentleness and patience in listening. In his long letter to Quintus, when Quintus was governor of Asia, he gives him good advice on this head: "Adjungenda etiam est facilitas in audiendo, lenitas in decernendo, in satisfaciendo ac disputando diligentia" (c. 7). The 'praetura urbana' was a "noble office and well adapted to prepare the way for the consulship; for the reputation that he got for equity, integrity, and good temper was finally completed by the entertainment of his games."

gratiam aequitatis largitio: qua in sorte sapiens praetor, qualis hic fuit, offensionem vitat aequabilitate decernendi, benevolentiam adjungit lenitate audiendi. Egregia et ad consulatum apta provincia, in qua laus aequitatis, integritatis, facilitatis ad extremum ludorum voluptate concluditur. Quid tua sors? tristis, atrox: quaestio peculatus, ex altera parte lacrimarum et squaloris, ex altera plena catenarum atque indicum. Cogendi judices inviti, retinendi contra voluntatem; scriba damnatus, ordo totus alienus; Sullana gratificatio reprehensa, multi viri fortes, et prope pars civitatis offensa est; lites severe aestimatae: cui placet, obliviscitur: cui dolet, meminit. Postremo tu in provinciam ire noluisti. Non possum id in te reprehendere, quod in me ipso et praetore et consule probavi. Sed tamen L. Murenae provincia multas bonas gratias cum optima existimatione attulit. Habuit proficiscens dilectum in Umbria: dedit ei facultatem res publica liberalitatis, qua usus multas sibi tribus, quae municipiis Umbriae conficiuntur, adjunxit. Ipse autem in Gallia, ut nostri homines desperatas jam pecunias exigerent aequitate diligentiaque perfecit. Tu interea Romae scilicet amicis praesto fuisti. Fateor: sed tamen illud cogita, nonnullorum ami-

quaestio peculatus,] The praetors, except the 'urbanus' and 'peregrinus,' distributed the Quaestiones among them by lot. Servius had to try matters of Peculatus, or misappropriation of public money; a disagreeable business for an honourable man to spend his time in looking into knaves' dirty tricks.

scriba damnatus,] Not one 'scriba' only perhaps; but the conviction of a single 'scriba' would alienate the whole order, which was powerful enough to prevent the election of Servius. See In Cat. iv. c. 7, and Vol. I. Verr. II. 3. c. 79. Scriba.

Sullana] Sulla rewarded his men with lands and money, the produce of proscription and murder. Some of his men were called to account after his death, and it seems lost their ill-gotten wealth; for 'reprehensa' means that these grants were called in question. Cicero says in his long letter to Quintus (Ad Q. Fr. i. 1. c. 7): "Cogebantur Sullani homines quae per vim et metum abstulerant reddere."

lites] 'Damages were strictly assessed.' 'Lis' is not only the suit, but the 'aestimatio litis,' the fixing of the damages or penalty which the defendant must pay.

provincia] Murena had the province of Gallia Transalpina after his praetorship. He was empowered to raise troops in Umbria, and he used his authority in such a way as to gain the good will of the towns (municipia) of Umbria, which were included, as it seems, in various tribes, and helped to compose them (conficere).

desperatas] The Romans, and particularly the equites, had placed their money in Gallia, and they had debts which were desperate (desperatae). Murena, like other Roman governors, did what he could to effect a settlement of these claims and to help his Roman friends to their money. Gallia was a country in which the Roman employed his capital: "Referta Gallia negotiatorum est, plena civium Romanorum. Nemo Gallorum sine cive Romano quidquam negotii gerit: nummus in Gallia nullus sine civium Romanorum tabulis movetur" (Pro Fonteio, c. 5. Vol. II.).—'ipse autem' is the MSS. reading, for which Ernesti wrote 'ipsa,' and Halm has followed. 'Ipsa' makes an opposition between Umbria and Gallia; but 'ipse' makes an opposition between what Murena did unaided in Gallia, and what the state enabled him to do in Umbria (dedit ei facultatem res publica). Klotz understood it right. Some editions have at the end of this chapter the false reading 'intelligant.' There is no meaning in a subjunctive there.

eorum studia minui solere in eos a quibus provincias contemni intelligunt.

XXI. Et quoniam ostendi, judices, parem dignitatem ad consulatus petitionem, disparem fortunam provincialium negotiorum in Murena atque in Sulpicio fuisse, dicam jam apertius, in quo meus necessarius fuerit inferior Servius, et ea dicam, vobis audientibus, amisso jam tempore, quae ipsi soli re integra saepe dixi. Petere consulatum nescire te, Servi, persaepe tibi dixi; et in iis rebus ipsis, quas te magno et forti animo et agere et dicere videbam, tibi solitus sum dicere magis te fortem senatorem mihi videri quam sapientem candidatum. Primum accusandi terrores et minae, quibus tu quotidie uti solebas, sunt fortis viri; sed et populi opinionem a spe adipiscendi avertunt, et amicorum studia debilitant. Nescio quo pacto semper hoc fit, neque in uno aut altero animadversum est, sed jam in pluribus: simul atque candidatus accusationem meditari visus est, ut honorem desperasse videatur. Quid ergo, acceptam injuriam persequi non placet? immo vehementer placet, sed aliud tempus est petendi, aliud persequendi. Petitorem ego, praesertim consulatus, magna spe, magno animo, magnis copiis et in forum et in campum deduci volo: non placet mihi inquisitio candidati, praenuntia repulsae: non testium potius quam suffragatorum comparatio: non minae magis quam blanditiae: non declamatio potius quam persalutatio: praesertim quum jam hoc novo more omnes fere domos omnium concursent, et ex vultu candidatorum conjecturam faciant, quantum quisque animi et facultatis habere

21. *amisso jam tempore,*] "Now that the opportunity is passed:" the election was over. Cicero told Servius his opinion before the matter was decided (re integra).

a spe adipiscendi avertunt,] If this is a correct form of expression, it is at least a defective form. It does not say clearly what is meant to be said, which is this: "it turns away the opinion of the people from the expectation of the candidate's success."—'honorem desperasse:' Caesar says (B. G. iii. 12), "suis fortunis desperare coeperunt," where 'fortunis' is the dative (B. G. vii. 50, 'sibi desperans;' and 'sibi ipse desperat' in this chapter). 'Desperare' is also used with 'de' and an ablative.

declamatio] This word came into use in Cicero's time. He says (Brutus, c. 9): "Commentabar declamitans, sic enim nunc loquuntur, saepe cum M. Pisone." In the Philipp. (v. 7): "Ipse interea XVII dies de me in Tiburtino Scipionis declamitavit sitim quaerens. Haec enim ei caussa esse declamandi solet." Cicero's son used the word in a letter to Tiro (Ad Fam. xvi. 21): "Praeterea declamitare Graece apud Cassium institui." 'Declamare' means to speak out aloud; to practise delivery (De Fin. v. 2); and also to speak publicly, but in a loud, brawling, absurd way (Pro Rosc. Am. c. 29). The later meaning of 'declamatio' is a written discourse on a rhetorical subject, such as the Declamationes of Quintilian. 'Et declamatio fias' (Juv. x. 167).

omnes—concursent,] "According to the present fashion almost all the people come in crowds to the houses of all the candidates," to look at them, to see how they look. Cicero (De Divin. ii. 63) says: "Deos concursare omnium mortalium non modo lectos, verum etiam grabatos."—'videsne:' we say, 'Don't you see?'

videatur. Videsne tu illum tristem, demissum? jacet, diffidit, abjecit hastas. Serpit hic rumor: Scis tu illum accusationem cogitare? inquirere in competitores? testes quaerere? Alium faciam, quoniam sibi hic ipse desperat. Ejusmodi candidatorum amici intimi debilitantur, studia deponunt, aut testatam rem abjiciunt, aut suam operam et gratiam judicio et accusationi reservant. XXII. Accedit eodem ut etiam ipse candidatus totum animum atque omnem curam, operam diligentiamque suam in petitione non possit ponere. Adjungitur enim accusationis cogitatio, non parva res, sed nimirum omnium maxima. Magnum est enim te comparare ea quibus possis hominem e civitate, praesertim non inopem neque infirmum, exturbare; qui et per se, et per suos et vero etiam per alienos defendatur. Omnes enim ad pericula propulsanda concurrimus, et qui non aperte inimici sumus, etiam alienissimis in capitis periculis amicissimorum officia et studia praestamus. Quare ego expertus et petendi et defendendi et accusandi molestiam sic intellexi: in petendo studium esse acerrimum, in defendendo officium, in accusando laborem. Itaque sic statuo, fieri nullo modo posse ut idem accusationem et petitionem consulatus diligenter adornet atque instruat. Unum sustinere pauci possunt, utrumque nemo. Tu quum te de curriculo petitionis deflexisses animumque ad accusandum transtulisses, existimasti te utrique negotio satisfacere posse? Vehementer errasti. Quis enim dies fuit, posteaquam in istam accusandi denuntiationem ingressus es, quem tu non totum in ista ratione consumpseris? XXIII. Legem ambitus flagitasti, quae tibi non deerat, erat enim severissime scripta Calpurnia. Gestus

abjecit hastas.] This is generally explained to mean that a man throws away his spear as the sign that he is beaten, and is going to run away; or, as some say, it is a term taken from the gladiators' fights, but no proof is given of this. When the soldier is in despair he throws away his 'jaculum,' for that is what is meant, as a man now, says Sylvius, throws away his sword. So it seems when a soldier is in despair, he throws away his only chance of defence; he throws away that which he can still carry in his hand and which might help him in his utmost need. One can understand why the shield was thrown away, for it was a hindrance to flight. This cannot be Cicero's meaning. The man is represented as despairing of success, but he is still thinking of vengeance. Caesar says of one of his battles (B. G. i. 52): "Rejectis pilis comminus gladiis pugnatum est." Servius throws away his spear, but he is going to use another weapon. If this explanation is not accepted, we must take the other. I know no third.

aut testatam] This is the reading of some MSS.; in the others it is corrupted. Halm follows Lambinus' conjecture—'aut totam.' But 'testatam' is plain. It is a thing proved by evidence. The candidate is supposed to have shown that he has no hope. Moebius quotes Cicero (Vol. I. Verr. Act. i. c. 16): "Res ita notas, ita testatas;" and Verr. ii. 2. c. 76: "Ut res quam maxime clara ac testata esse posset." Manutius explains 'testatam' thus: "Suffragationem omittunt, testati cur omittant; ne scilicet ei faveant qui sibi ipse desperet."

22. *exturbare;*] The penalty of the Lex Tullia de ambitu was ten years' 'exilium,' which was 'e civitate exturbare.'

23. *Calpurnia.*] This was the Lex Cal-

est mos et voluntati et dignitati tuae. Sed tota illa lex accusationem tuam, si haberes nocentem reum, fortasse armasset: petitioni vero refragata est. Poena gravior in plebem tua voce efflagitata est; commoti animi tenuiorum: exsilium in nostrum ordinem; concessit senatus postulationi tuae, sed non libenter duriorem fortunae communi conditionem te auctore constituit. Morbi excusationi poena addita est: voluntas offensa multorum, quibus aut contra valetudinis commodum laborandum est, aut incommodo morbi etiam ceteri vitae fructus relinquendi. Quid ergo, haec quis tulit? Is qui auctoritati senatus, voluntati tuae paruit: denique is tulit, cui minime proderant. Illa quae mea summa voluntate senatus frequens repudiavit, mediocriter adversata tibi esse existimas? Confusionem suffragiorum flagitasti, prorogationem legis Maniliae,

purnia de ambitu, which took its name from the consul C. Calpurnius Piso. It was severe enough, says Cicero; but Servius seeing that the canvass of Murena was successful, urged Cicero and the senate to pass a stricter Lex, the Lex Tullia de ambitu.

fortunae communi] 'Senatorum,' says Sylvius.

Morbi excusationi] 'Excusatio' is the name of a legal excuse. "Est et hoc genus excusationis, si quis se dicat domicilium non habere Romae delectus ad munus" (Frag. Vat. De Excusatione, § 204). Manutius supposes that Servius proposed that all voters should be compelled by a clause in the Lex to come to the 'comitia' under some penalty, and that illness should not be a valid excuse. But this is not the meaning. It seems that Servius was proposing a clause in the new Lex de ambitu, which should not allow illness to be a valid excuse for not appearing in court on a trial De ambitu when a man was summoned. The consequence would be that sick persons must appear in court to the injury of their health, or, if they did not appear, they must in addition to the illness 'relinquish the rest of the advantages of life.' It is difficult to know what the orator means, for he does not tell us what the loss would be. But if they were required to appear in court when summoned, and if illness was no legal excuse, it is plain that there must have been some penalty for non-appearance, or the Lex would have had no force.

quis tulit?] Cicero 'tulit,' and could get nothing by it except unpopularity. 'Illa quae' is explained by what follows.

Confusionem] Servius proposed that the votes should not be taken in the usual way, beginning with the votes of the first class, but that the people should all vote together without any distinction of class or century. Livy (26. c. 18): "Jussi deinde inire confusum suffragium ad unum omnes non centuriae modo sed etiam homines P. Scipioni imperium esse in Hispania jusserunt." The note of P. Manutius on this passage of Cicero explains it thus: "Servius proposed that when the votes had been given, the 'centuriae' should not be counted according to the usual practice, but that all the votes of all the 'centuriae' should be mixed, and by counting them it should be ascertained who was elected consul, and who was rejected; the result would be to destroy bribery, as the vote of no century would appear."

The prorogation of the Manilia Lex is obscure; most of the commentators, except Garatoni, assume that it was a Lex proposed by the tr. pl. Manilius for distributing the votes of the 'libertini' among all the tribes. But all about this Lex, if there ever was one, is quite uncertain. Nor is there any explanation of what is meant by the 'prorogatio' of a Lex; for either the Lex existed, and was in force; or it had never been enacted, though it had been proposed; or it had been enacted, and was repealed. But the word 'prorogatio' applies to none of these cases. Or, it was enacted for a limited time, and the time was near its end. The reading of E. G. M. and some other MSS. is 'prerogationem,' which may mean 'perrogationem,' as Mommsen conjectures, and Halm accepts it.

This mode of taking the votes would have been very displeasing to many people, for it confounded all the votes in one mass. Under the existing system it was well known

aequationem gratiae, dignitatis, suffragiorum. Graviter homines honesti atque in suis civitatibus et municipiis gratiosi tulerunt, a tali viro esse pugnatum, ut omnes et dignitatis et gratiae gradus tollerentur. Idem editios judices esse voluisti ut odia occulta civium, quae tacitis nunc discordiis continentur, in fortunas optimi cujusque erumperent. Haec omnia tibi accusandi viam muniebant, adipiscendi obsepiebant.

Atque ex omnibus illa plaga est injecta petitioni tuae non tacente me maxima; de qua ab homine ingeniosissimo et copiosissimo, Hortensio, multa gravissime dicta sunt. Quo etiam mihi durior locus est dicendi datus, ut, quum ante me et ille dixisset, et vir summa dignitate et diligentia et facultate dicendi, M. Crassus, ego in extremo non partem aliquam agerem caussae, sed de tota re dicerem quod mihi videretur. Itaque in iisdem rebus fere versor, et quoad possum, judices, occurro vestrae satietati. XXIV. Sed tamen, Servi, quam te securim putas injecisse petitioni tuae, quum tu populum Romanum in eum metum adduxisti ut pertimesceret,

how the votes of the chief persons in any town were given. Manutius, who generally understood Cicero well, says: "Any particular 'municipium' or 'colonia' or 'praefectura' got importance and influence if it was ascertained that any consul had been chosen by its vote; but if all the votes are confounded, the influence and character of every man are put on the same level, for it is not seen from what persons the honour comes which the votes confer."

civitatibus] 'vicinitatibus,' Halm.

edititios judices] This is explained in the oration Pro Cn. Plancio. 'Edititii judices' are 'judices' chosen in such way by the prosecutor that they could not be challenged by the accused. This mode of appointing 'judices' was fixed by the Lex Licinia de Ambitu, which was enacted after B.C. 63. (Wunder, Prolegomena to his edition of the oration Pro Cn. Plancio, and the oration Pro Cn. Plancio, c. 15, 16.)

M. Crassus,] This was the man who was afterwards leagued with Caesar and Pompeius, and perished in the sands of Mesopotamia, into which he had foolishly led his legions against the Parthians. Cicero in his Brutus (c. 66) does not speak very highly of his oratorical talents. The terms in which he describes him as an orator are singularly precise: "Is igitur mediocriter a doctrina instructus, angustius etiam a natura, labore et industria, et quod adhibebat ad obtinendas caussas curam etiam et gratiam, in principibus aliquot annos fuit. In hujus oratione sermo Latinus erat, verba non abjecta, res compositae diligenter; nullus flos tamen neque lumen ullum; animi magna, vocis parva contentio, omnia fere ut similiter atque uno modo dicerentur."

quoad possum,] Some MSS. have 'quod possum.'—'satietati:' there is a reading 'sapientiae,' and it should be mentioned for Hotmann's credit, that he altered it into 'satietati,' which G has. There is also 'sapietati' and 'pietati.' Moebius, who retains 'sapientiae,' explains it to mean, "I satisfy what your wisdom demands." He compares In Verr. ii. 5. c. 9: "istius avaritiae et sceleri occurrere;" which we may translate 'to meet it and to prevent it.' The word 'occurrere' is ambiguous, for as it means to meet a thing, it may mean to meet and hinder, or to meet for some other purpose. But Cicero (Verr. ii. 4. c. 47) has this very expression which he explains: "Nimium mihi diu videor in uno genere versari criminum. Sentio, judices, occurrendum esse satietati aurium animorumque vestrorum. Quamobrem multa praetermittam." It means to anticipate. Compare c. 37, 'consiliis occurro.'

24. *Sed tamen,*] He returns to the matter which he had introduced by the words 'plaga est injecta petitioni tuae;' and he expresses the same thing by 'securim—injecisse petitioni tuae.' He has the same expression in the oration Pro Cn. Plancio, c. 29: "Quam enim—graviorem potuerunt rei publicae infligere securim?"

ne consul Catilina fieret, dum tu accusationem comparares deposita atque abjecta petitione? Etenim te inquirere videbant, tristem ipsum, maestos amicos; observationes, testificationes, seductiones testium, secessionem subscriptorum animadvertebant; quibus rebus certe ipsi candidatorum vultus obscuriores videri solent: Catilinam interea alacrem atque laetum, stipatum choro juventutis, vallatum indicibus atque sicariis, inflatum quum spe militum, tum collegae mei, quemadmodum dicebat ipse, promissis, circumfluentem colonorum Arretinorum et Faesulanorum exercitu: quam turbam dissimillimo ex genere distinguebant homines perculsi Sullani temporis calamitate. Vultus erat ipsius plenus furoris, oculi sceleris, sermo arrogantiae, sic ut ei jam exploratus et domi conditus consulatus videretur. Murenam contemnebat: Sulpicium accusatorem suum numerabat, non competitorem: ei vim denuntiabat: rei publicae minabatur. XXV. Quibus rebus qui timor bonis omnibus injectus sit, quantaque desperatio rei publicae, si ille factus esset, nolite a me commoneri velle: vosmetipsi vobiscum recordamini. Meministis enim, quum illius nefarii gladiatoris voces percrebruissent quas habuisse in contione domestica dicebatur, quum miserorum fidelem defensorem negasset inveniri posse, nisi eum qui ipse miser esset: integrorum et fortunatorum promissis saucios et miseros credere non oportere; quare, qui consumpta replere, erepta recuperare vellent, spectarent, quid ipse deberet, quid possideret, quid auderet; minime timidum et valde calamitosum esse oportere eum, qui esset futurus dux et signifer calamitosorum—tum igitur, his rebus auditis, meministis fieri senatus consultum, referente me, ne postero die comitia haberentur, ut de his rebus in senatu agere possemus. Itaque postridie frequenti senatu Catilinam excitavi, atque eum de iis rebus jussi, si quid vellet, quae ad me allatae essent dicere. Atque ille, ut semper fuit apertissimus, non se purgavit, sed indicavit atque induit. Tum enim dixit duo

seductiones] Cicero represents Servius as neglecting his canvass and entirely occupied with getting evidence of bribery and illegal acts against his competitors. The people saw witnesses taken aside, and men who were to act as 'subscriptores' in the future prosecution going apart with Servius and his friends.—'quibus – solent:' there is perhaps some corruption here.

Faesulanorum] See the Introduction to the orations against Catilina, and the orations. Catilina's men were a body of desperate fellows of all kinds (dissimillimo ex genere), but the body was further marked by having in it men who had lost their property by Sulla's violence, and who now made common cause even with the men who had been enriched by Sulla's gifts, and had spent in rioting what they had got by crime. These men having lost every thing by one revolution, hoped to get something by another.

25. *ne postero die*] See the Introduction to the orations against Catilina, p. 5, which will explain this chapter.

induit.] The reading of E. G. M. The old reading was 'innuit,' which Hotmann corrected, and his correction is confirmed by

corpora esse rei publicae, unum debile, infirmo capite; alterum firmum, sine capite: huic, si ita de se meritum esset, caput se vivo non defuturum. Congemuit senatus frequens, neque tamen satis severe pro rei indignitate decrevit; nam partim ideo fortes in decernendo non erant, quia nihil timebant, partim quia timebant: quum erupit e senatu, triumphans gaudio, quem omnino vivum illinc exire non oportuerat; praesertim quum idem ille in eodem ordine paucis diebus ante Catoni, fortissimo viro, judicium minitanti ac denuntianti, respondisset, si quod esset in suas fortunas incendium excitatum, id se non aqua sed ruina restincturum. XXVI. His tum rebus commotus, et quod homines jam tum conjuratos cum gladiis in campum deduci a Catilina sciebam, descendi in campum cum firmissimo praesidio fortissimorum virorum, et cum illa lata insignique lorica, non quae me tegeret, etenim sciebam

the MSS. Lambinus is in raptures about it: "mirabilis hic quoque et paene dicam divina Hottomanni εὐτυχία fuit." Cicero (Verr. ii. 2. c. 42): "Hic videte in quot se laqueos induerit." Caesar (B. G. vii. 73) says: "se ipsi vallis acutissimis induebant." Catilina did not clear himself, but he exposed himself (indicavit) and entangled himself (induit).

infirmo capite:] Manutius would write 'firmo capite,' in order that contraries may answer to contraries; and he cites Plutarch's version of what Catilina said (Cicero, c. 14), which is this: "What am I doing so strange, if when there are two bodies, one lean and wasted, but with a head, and the other headless, but strong and large, I myself furnish it with a head?" Sylvius thinks that Manutius' emendation is beautiful. It is a very easy emendation to make, and specious, but it is false. Graevius, who is generally judicious, saw that Cicero's version of what he said was the true version. Plutarch's version simply gives the weak body a head; but when we say a head, we mean a strong head. The head was Cicero, and Catilina meant to say that it was a weak head.

partim—partim] 'Some' and 'others.' See Pro Fonteio, c. 12. Vol. II.—'quum erupit:' 'atque erupit,' Halm, following Th. Mommsen. The MSS. have 'que,' 'qui,' 'tum.' If we must change any thing, I prefer 'quum' to Mommsen's 'atque.'—'triumphans gaudio:' Pro Cluentio, c. 5. Vol. II.

paucis diebus ante] Sallust (Cat. c. 31) tells the story differently. He says that it was on the same day when the Senate was called and Cicero attacked him in the first oration, that Catilina said, "Quoniam quidem circumventus ab inimicis praeceps agor, incendium meum ruina restinguam." Cicero certainly knew the history of the conspiracy better than Sallust; but if we are to choose between them in this trifling matter, I do not think we must assume that Cicero is right and Sallust wrong. Cicero was careless about facts, and here he would state such a fact as this in the way that best suited his purpose. Catilina threatened, if a conflagration was lighted up against his fortunes, that he would not extinguish it by water, which I suppose was the usual way of putting out a fire in a house, but by pulling down others, as houses were sometimes pulled down to stop the progress of a great fire.

26. *illa—lorica,*] The coat of mail is mentioned by Plutarch (Cicero, c. 14; and compare In Cat. i. c. 5). This use of 'illa' is very common in Cicero. Our pronoun 'that' does not tell the meaning of it; though it seems that 'ille' in Latin bore its meaning with it, and 'insigni' makes it still plainer.

He alludes to Catilina's assassinations. There is a story of his carrying to L. Sulla the head of M. Marius Gratidianus still palpitating (Plutarch, Sulla, c. 32; Asconius, on the oration In Toga Candida). Gratidianus was twice praetor, as Asconius says, and on very intimate terms with Cicero. It seems almost incredible that a man after committing such a crime as this was allowed to live, to be elected praetor, to govern a province, and to aspire to the consulship. But it may be true still. Franco

Catilinam non latus aut ventrem, sed caput et collum solere petere, verum ut omnes boni animadverterent, et quum in metu et periculo consulem viderent, id quod est factum, ad opem praesidiumque concurrerent. Itaque quum te, Servi, remissiorem in petendo putarent, Catilinam et spe et cupiditate inflammatum viderent, omnes qui illam ab re publica pestem depellere cupiebant ad Murenam se statim contulerunt. Magna est autem comitiis consularibus repentina voluntatum inclinatio, praesertim quum incubuit ad virum bonum et multis aliis adjumentis petitionis ornatum. Qui quum honestissimo patre atque majoribus, modestissima adolescentia, clarissima legatione, praetura probata in jure, grata in munere, ornata in provincia, petisset diligenter, et ita petisset ut neque minanti cederet neque cuiquam minaretur, huic mirandum est magno adjumento Catilinae subitam spem consulatus adipiscendi fuisse?

Nunc mihi tertius ille locus est relictus orationis de ambitus criminibus, perpurgatus ab iis qui ante me dixerunt, a me, quoniam ita Murena voluit, retractandus; quo in loco Postumio, familiari meo, ornatissimo viro, de divisorum indiciis et de deprehensis pecuniis, adolescenti ingenioso et bono, Ser. Sulpicio, de equitum centuriis, M. Catoni, homini in omni virtute excellenti, de ipsius accusatione, de senatus consulto, de re publica respondebo. XXVII. Sed pauca, quae meum animum repente moverunt, prius de L. Murenae fortuna conquerar. Nam quum saepe antea, judices, et ex

in its revolutions has seen as great criminals raised to high estate. Cicero says (Pro S. Ros. Am. c. 29), speaking of Sulla's murders: "Nescimus per ista tempora eosdem fere sectores fuisse collorum et bonorum?"

in jure,] Murena as 'praetor urbanus' (c. 20) had the administration of the law; and he had got popularity by his shows (in munere).

ambitus] He comes now, and not till now, to the real matter of the charge, the third division (c. 5), the only one that it really concerned Murena to answer.

divisorum] The 'divisores' were the men who were employed to distribute the bribe money (In Verr. Act. i. c. 8. Vol. I.). See Pro Cn. Plancio, c. 18.—'de equitum centuriis:' the eighteen 'centuriae equitum' of Servius Tullius (Livy, i. 43), who were in the first class. Cicero says (Ad Fam. xi. 16): "Nunc, si me tanti facis, quanti certe facis, quoniam equitum centurias tenes in quis regnas, mitte ad Lupum nostrum ut is nobis eas centurias conficiat." Lupus was to visit the 'centuriae equitum,' and to secure them (conficiat). He was the election agent, the man who was to get the votes of these 'centuriae.' Natta his stepson (c. 35) did this job for Murena, and if he used any means for that purpose, Cicero argues that Murena was not to be answerable for it. A man gets votes for a candidate any way, but it must not be presumed that the candidate knows any thing that his friends do for him. It must be proved that he knew and consented, for an enemy might bribe in order to spoil his election. But still we might presume that the candidate knows what his friends or his agents are about. All he may know is that he has to furnish money for some purpose unknown to him; but that is enough. Money was paid at Rome for votes; and there was treating, that is eating and drinking at free cost to the honourable voter.

de senatus consulto,] The S.C. mentioned afterwards, c. 32.

aliorum miseriis, et ex meis curis laboribusque quotidianis, fortunatos eos homines judicarem, qui remoti a studiis ambitionis otium ac tranquillitatem vitae secuti sunt, tum vero in his L. Murenae tantis tamque improvisis periculis ita sum animo affectus, ut non queam satis neque communem omnium nostrum conditionem, neque hujus eventum fortunamque miserari; qui primum, dum ex honoribus continuis familiae majorumque suorum unum adscendere gradum dignitatis conatus est, venit in periculum, ne et ea quae relicta, et haec quae ab ipso parta sunt, amittat, deinde propter studium novae laudis etiam in veteris fortunae discrimen adducitur. Quae quum sint gravia, judices, tum illud acerbissimum est, quod habet eos accusatores, non qui odio inimicitiarum ad accusandum, sed qui studio accusandi ad inimicitias descenderint. Nam ut omittam Servium Sulpicium, quem intelligo non injuria L. Murenae, sed honoris contentione permotum, accusat paternus amicus, [Cn.] Postumius, vetus, ut ait ipse, vicinus ac necessarius; qui necessitudinis caussas complures protulit, simultatis nullam commemorare potuit: accusat Ser. Sulpicius, sodalis filii, cujus ingenio paterni omnes necessarii munitiores esse debebant: accusat M. Cato, qui quamquam a Murena nulla re umquam alienus fuit, tamen ea conditione [nobis] erat in hac civitate natus, ut ejus opes et ingenium praesidio multis etiam alienissimis, exitio vix cuiquam inimico esse deberent. Respondebo igitur Postumio primum, qui nescio quo pacto mihi videtur praetorius candidatus in consularem quasi desultorius in quadrigarum curriculum incurrere. Cujus competitores

27. *gradum dignitatis*] The ancestors of Murena had obtained the 'honores,' but not the consulship. He was the first consul of his family. 'Ea quae relicta' are the 'honores' or the ancestral titles which were transmitted to him.

sodalis filii,] G. omits 'filii.' I do not see what it means, unless that young Servius was a 'sodalis' of the son of Murena; if Murena had a son. 'Sodalis' appears to contain the element 'sed,' and this is one of the explanations which Festus (s. v.) gives: "Sodales quidam dictos putant quod una sederent essentque." It seems to mean no more here than companion, member of some little society or club. Cato says (De Sen. c. 13): "Primum habui semper sodales; sodalitates autem me quaestore constitutae sunt." Members of the same Collegium also were called Sodales.—'nobis,' v.; 'nobilis,' E. M. G. and other MSS.—'alienissimis:' 'alienis,' Halm.

desultorius] An 'equus desultorius' is a horse which 'desultores' used in the Circus (Sueton. Julius, c. 39): "Quadrigas bigasque et equos desultorios agitaverunt nobilissimi juvenes." On this passage Torrentius remarks that they called Desultores not those only whom the Greeks called ἀμφίππους, because they managed two horses, and leapt from one to the other, but also those whom Dionysius speaks of (Antiq. Rom. vii. 73). But I do not see that this passage of Dionysius is cited for any purpose. Cicero is alluding to the practice of driving horses, and leaping from one to another. This kind of exhibition was quite distinct from the chariot race (quadriga); and Postumius, who had abandoned his own canvass to prosecute Murena, is represented as being as much out of place as if a man who is riding these 'desultorii equi' should mix himself with the chariot race. This would be to meddle

si nihil deliquerunt, dignitati eorum concessit, quum petere destitit. Sin autem eorum aliquis largitus est, expetendus amicus est, qui alienam potius injuriam quam suam persequatur.

(De Postumii criminibus. De Servii adolescentis.)

XXVIII. Venio nunc ad M. Catonem, quod est firmamentum ac robur totius accusationis; qui tamen ita gravis est accusator et vehemens ut multo magis ejus auctoritatem quam criminationem pertimescam. In quo ego accusatore, judices, primum illud deprecabor, ne quid L. Murenae dignitas illius, ne quid expectatio tribunatus, ne quid totius vitae splendor et gravitas noceat; denique ne ea soli huic obsint bona M. Catonis, quae ille adeptus est ut multis prodesset. Bis consul fuerat P. Africanus et duos terrores hujus imperii Karthaginem Numantiamque deleverat, quum accusavit L. Cottam. Erat in eo summa eloquentia, summa fides, summa integritas, auctoritas tanta, quanta in imperio populi Romani quod illius opera tenebatur. Saepe hoc majores natu dicere audivi, hanc accusatoris eximiam dignitatem plurimum L. Cottae profuisse. Noluerunt sapientissimi homines, qui tum rem illam judicabant, ita quemquam cadere in judicio ut nimiis adversarii viribus abjectus videretur. Quid Ser. Galbam, nam traditum memoriae est, nonne

with something that did not suit him at all. The practice of vaulting from one horse to another is described even in Homer (Il. xv. 679). He has four horses:

—— ὁ δ' ἔμπεδον ἀσφαλὲς αἰεὶ
Θρώσκων ἄλλοτ' ἐπ' ἄλλον ἀμείβεται,
οἱ δὲ πέτονται.

Cicero says of Postumius: "If his competitors for the praetorship have done nothing wrong, he yielded to their superior merit when he desisted from his canvass. But if any one of them has been guilty of bribery, he must look for a friend who is ready to avenge another person's wrong rather than his own." This is said sarcastically.

De Postumii] There is nothing in any of the MSS. under this head; and though Cicero certainly said something, it appears that he did not think it worth publishing. In the passage of Pliny (Ep. i. 20) cited in Vol. II. (Pro Fonteio, c. 9), this oration for Murena is one of those which Pliny mentions as differing in its published from its spoken form.

28. *quod est*] This is a form not unusual in Cicero. 'Quod' refers to the nouns which follow.—'qui tamen ita:' "and though he is a weighty and powerful prosecutor, I dread the authority of his name much more than his charge." When 'ita—ut' occur, it is often necessary to change the form of expression in translation, or we shall not get the meaning. There are more ways than one of doing it. The following instance will show the necessity of varying the form in English: "Nos ita te desideramus ut amemus," and he explains it thus: "Amor ut valentem videamus hortatur; desiderium, ut quam primum" (Cicero, Ad Fam. xvi. 1).

expectatio tribunatus,] Cato was 'tr. pl. designatus.' Plutarch (Cato Min. c. 19).

P. Africanus] Africanus the younger. This affair of Cotta is spoken of in another place (Vol. I. Divin. c. 21, note).

Ser. Galbam,] Cicero does not mention his crime, which was great. Ser. Sulpicius Galba during his praetorship in Spain accepted the surrender of many thousand Lusitani; but, contrary to his promise, he put some to death and sold others for slaves. L. Scribonius Libo (B.C. 149) endeavoured to bring the man to justice, but as this was

proavo tuo, fortissimo atque florentissimo viro, M. Catoni, incumbenti ad ejus perniciem, populus Romanus eripuit? Semper in hac civitate nimis magnis accusatorum opibus et populus universus et sapientes ac multum in posterum prospicientes judices restiterunt. Nolo accusator in judicium potentiam afferat, non vim majorem aliquam, non auctoritatem excellentem, non nimiam gratiam. Valeant haec omnia ad salutem innocentium, ad opem impotentium, ad auxilium calamitosorum, in periculo vero et in pernicie civium repudientur. Nam si quis hoc forte dicet Catonem descensurum ad accusandum non fuisse, nisi prius de caussa judicasset, iniquam legem, judices, et miseram conditionem instituet periculis hominum, si existimabit judicium accusatoris in reum pro aliquo praejudicio valere oportere.

XXIX. Ego tuum consilium, Cato, propter singulare animi mei de tua virtute judicium, vituperare non possum: nonnulla forsitan conformare et leviter emendare possim. Non multa peccas, inquit ille fortissimo viro senior magister: sed, si peccas, te regere

before the time when the Quaestiones Perpetuae were established, he proposed a Lex for the punishment of Galba. It does not appear what all the terms of the proposed Lex were. Old Cato, the great grandfather of the Stoic, now in his eighty-fifth year, supported Libo's Lex, and some few fragments of his speech are extant (Gellius, i. 12; xiii. 24). The man was guilty, and he only escaped by moving the compassion of the people: "Ipse quoque Galba quum se damnari videret, complexus duos filios praetextatos et Sulpicii Galli filium cujus tutor erat, ita miserabiliter pro se locutus est ut rogatio antiquaretur" (Liv. Ep. 49). The excuse of Galba was that the Lusitani intended to attack him treacherously, and he anticipated them. Among the few Lusitani who escaped from Galba's hands was Viriathus, who soon found the Romans plenty to do. (Appian, Hispan. 59, 60.) Galba's excuse was probably a lie. Appian of course found his story of Galba's baseness somewhere; and, if it is true, it was one of the most abominable acts of treachery and cruelty that a man was ever guilty of. The old man of eighty-four who tried to bring him to punishment was in this and many other things an example of a noble Roman. (Meyer, Orat. Rom. Frag. ed. ii.; Rein, Das Criminal-Recht der Römer.)

vim majorem] He may simply mean that he would not have a prosecutor bring to a prosecution political power, nor any unusual force, besides the other things which he enumerates. But 'vis major' has also a technical meaning which was well-known to a Roman. It means fire, the earthquake, the invasion of a country by an enemy who destroys all before him; this is 'vis major.' It is also the violent tempest, storm, hail and furious wind: this is 'vis major.' 'Vis minor' is blight, mildew, and such things. Cicero (Pro Cn. Plancio, c. 42) says: "Sin autem vitam mihi fors ademisset aut vis aliqua major reditum peremisset." There is a passage of Africanus (Dig. 19. 2. 3) in which 'potentia' and 'vis major' come together as in this passage of Cicero. The jurisconsult is speaking of a tenant 'colonus,' who is prevented by some force from enjoying what he has hired: "Sin vero ab eo interpellabitur quem tu prohibere propter vim majorem aut potentiam ejus non poteris, nihil amplius ei quam mercedem remittere aut reddere debebis."

praejudicio] See Vol. II. Index.

29. *emendare possim.*] One MS. has 'possum.'—'Non multa—magister:' these words are cited by Quintilian (Inst. viii. 6. 30). The words which Cicero quotes are probably from some old writer, Attius or Ennius as some suppose.—'patitur:' there is a reading 'patiatur.'—'requirimus:' 'we miss,' as we say; we seek, and do not find, though we expect to find: "Denique isto bono utare dum adsit; quum absit, ne requiras" (De Sen. c. 10).

possum. At ego verissime dixerim peccare te nihil, neque ulla in re te esse hujusmodi ut corrigendus potius quam leviter inflectendus esse videare. Finxit enim te ipsa natura ad honestatem, gravitatem, temperantiam, magnitudinem animi, justitiam, ad omnes denique virtutes magnum hominem et excelsum. Accessit [istuc] doctrina non moderata nec mitis, sed, ut mihi videtur, paullo asperior et durior quam aut veritas aut natura patitur. Et quoniam non est nobis haec oratio habenda aut in imperita multitudine, aut in aliquo conventu agrestium, audacius paullo de studiis humanitatis, quae et mihi et vobis nota et jucunda sunt, disputabo. In M. Catone, judices, haec bona, quae videmus, divina et egregia, ipsius scitote esse propria: quae nonnumquam requirimus, ea sunt omnia non a natura, verum a magistro. Fuit enim quidam summo ingenio vir, Zeno,

[*istuc*] 'his dotibus,' Halm's conj.

Zeno,] Zeno, the founder of the Stoic sect, came from Citium in Cyprus. He heard several philosophers, Crates, Stilpo, Xenocrates, and Polemon. His place of resort at Athens was the Stoa called Poecile, and hence his followers were named Stoici. The period of his great celebrity was the time of Antigonus Gonatas (Diog. Laert. vii 1). He was originally a trader, and one of the very few examples of a money-making man turning philosopher. He lived to a great age, and is said to have been at the head of his school for fifty-eight years. Such a man must have had a great influence in his day, something like that exercised in modern times by preachers such as Wesley and others. The Greek philosophers can hardly be compared with the philosophical teachers of modern times; for though they have had influence, it is generally by their writings more than by their lectures, and by practical results. Zeno left some writings on moral subjects (Diog. vii. 4), but no great amount. He wrote also on purely speculative matters; for instance, he had the following opinion of the origin of man, an opinion which leads to consequences: "Zenon Citieus, Stoicae sectae conditor, principium humano generi ex novo mundo constitutum putavit, primosque homines ex solo adminiculo divini ignis, id est dei providentia, genitos" (Censorinus, De die natali, c. 4). We do not know exactly what he taught, for his followers were split in opinion, and we have no reason for assigning to the father of the Stoics the absurdities which Cicero ridicules There were pretenders to Stoicism, whom Epictetus strictly distinguished from the true men; he said there was besides the true and sincere Stoic, a rabble of miserable fellows who called themselves Stoics, and while throwing the black soot of words and sophistry before the eyes of their hearers, falsely assumed the name of a most honourable sect (Gellius, i. 2). Cicero (Acad. Post. i. 11; Acad. Pr. ii. 47) has some remarks on Zeno's Logica. Posidonius, a Stoic, a pupil and successor of Panaetius, had a school at Rhodes, and Cicero, Pompeius, and many other Romans heard him there (Cicero, Tusc. ii. 25; De Nat. Deorum, i. 3). This Posidonius was worth listening to. He was not a mere speculator. Before teaching at Rhodes he had travelled in the west of Europe and seen many men and many cities. He settled at Rome in the consulship of M. Marcellus, B.C. 51, which was twelve years after the date of this oration.

The later development of Stoicism at Rome belongs to the empire; to Seneca, Musonius (Tacit. Hist. iii. 81), Epictetus, and to the greatest name that has yet appeared in practical philosophy, the Emperor Marcus Antoninus, who tempered the severity of the Stoics with the mildness of his own humane and benevolent disposition. The Stoic was the philosophy of the noblest of the Romans. It was the true philosophy for the man who commanded armies and humbled kings without forgetting that he was himself subject to fortune and liable to infirmities. It is the philosophy of the man who can dare, do, and suffer.

The ridiculous extravagances of some of the professed Stoics of his time were ridiculed by Horace (Sat. i. 3 v. 96) with effect. He had attended lectures at Athens, and perhaps he had passed some tedious hours in hearing acute men try to prove what nobody can believe:—

cujus inventorum aemuli Stoici nominantur. Hujus sententiae sunt et praecepta hujusmodi: sapientem gratia numquam moveri,

"Quis paria esse fere placuit peccata laborant
Quum ventum ad verum est; sensus moresque repugnant,
Atque ipsa utilitas justi prope mater et aequi."

Cicero says any thing that suits his purpose, whether it is matter of history, of law, of opinion; and people should be on their guard against citing him as authority for that which he did not believe himself. In one of his works (De Fin. iv. 19) he addresses Cato on the so-called Stoical Paradoxa, and he cannot answer them. The Dialectic of the Stoics was very hard to deal with. The chapter is well worth reading. He says "in prima igitur constitutione Zeno tuus a natura recessit; quumque summum bonum posuisset in ingenii praestantia quam virtutem vocamus, nec quidquam aliud bonum esse dixisset, nisi quod esset honestum, nec virtutem posse constare, si in ceteris rebus esset quidquam quod aliud alio melius esset aut pejus; his propositis tenuit prorsus consequentia." Cicero admits that if Zeno's premises, or those which he attributes to him are granted, his conclusions cannot be disputed. He adds: "Recte dicis: negare enim non possum. Sed ita falsa sunt ea quae consequuntur, ut illa e quibus haec nata sunt vera esse non possint. Docent enim nos, ut scis, dialectici, si ea quae rem aliquam sequantur, falsa sint, falsam illam ipsam esse quam sequantur." We must then deal with the premises of the Stoics, and consider what is a 'summum bonum,' what is 'ingenii praestantia,' what is 'virtus,' what is 'honestum,' and whether 'virtus' has degrees, or vice has. If we could suppose a man of perfect virtue, and that he should fall into some vice, great or small, his perfection is gone.

Montesquieu, who often thinks very justly, has this remark (Pensées diverses): "Les termes de beau, de bon, de noble, de grand, de parfait, sont des attributs des objets, lesquels sont relatifs aux êtres qui les considèrent. Il faut bien se mettre ce principe dans la tête; il est l'éponge de presque tous les préjugés: c'est le fléau de la philosophie ancienne, de la physique d'Aristote, de la métaphysique de Platon."

The doctrine (James ii. 10), "For whosoever shall keep the whole law and yet offend in one point, he is guilty of all," which might seem to contain a contradiction, is explained by the verse which follows quite as well as by any of the commentators, and rather better. We may reasonably assume that Zeno's logical conclusions, which came directly from his premises, were abused by many of his followers and by pretenders to philosophy, and that Cicero and Horace both knew that no sensible Stoic maintained that all vices or crimes are equal in a practical sense, though every vice or crime is a deviation from the perfect standard. Cicero has a great deal about the Stoics in his writings, and if we were to put it all together, we should see that he is not very consistent. In one passage (De Fin. ii. 11) he explains the Stoic moral doctrine well. The Finis of the Stoics is "to be in harmony with Nature, and they mean by this to live according to Virtue, that is, 'honeste;' and this they explain thus: to live with the knowledge of the things which happen according to Nature, selecting those things which are according to Nature and rejecting the contrary." If the term Nature is truly understood, there is nothing in this doctrine that can be denied by any person. The Stoic doctrine of the Roman emperor elevated him above all philosophers as much as his exalted station raised him above other men. We know little of Zeno, but we may estimate his merit by that of the most distinguished of his followers. "What then is it that can lead us along the right way? One thing, and one only, Philosophy. And this consists in keeping the daemon within us (conscience) free from violence and harm, superior to pains and pleasures, doing nothing without a purpose, nor falsely nor hypocritically, neither caring whether another does it or does not do it; and further in receiving what happens and what is made our portion as coming from the place from which we came ourselves; but above all waiting for death with tranquil mind, as being nothing else than the dissolution of the elements of which every living being is composed. And if there is no hardship to the elements themselves in continually changing into another, why should a man have any apprehension about the change and dissolution of all the elements? for it is according to Nature, and nothing is bad that is according to Nature" (Antoninus, ii. 17). The emperor understands Nature in the sense that Bp. Butler explains it (Sermon 3, Upon Human Nature; Antoninus, xii. 1; vii. 11; xii. 5, and many other passages; and Aristotle, Eth. Nicom. x. 7. 10).

aemuli Stoici] 'Aemuli' means the

numquam cujusquam delicto ignoscere; neminem misericordem esse nisi stultum et levem; viri non esse neque exorari neque placari: solos sapientes esse, si distortissimi sint, formosos; si mendicissimi, divites; si servitutem serviant, reges: nos autem, qui sapientes non sumus, fugitivos, exsules, hostes, insanos denique esse dicunt: omnia peccata esse paria; omne delictum scelus esse nefarium, nec minus delinquere eum qui gallum gallinaceum, quum opus non fuerit, quam eum qui patrem suffocaverit; sapientem nihil opinari, nullius rei poenitere, nulla in re falli, sententiam mutare numquam. XXX. Haec homo ingeniosissimus, M. Cato, auctoribus eruditissimis inductus, arripuit; neque disputandi caussa, ut magna pars, sed ita vivendi. Petunt aliquid publicani: cave quidquam habeat momenti gratia. Supplices aliqui veniunt miseri et calamitosi: sceleratus et nefarius fueris, si quidquam misericordia adductus feceris. Fatetur aliquis se peccasse, et ejus delicti veniam petit: nefarium est facinus ignoscere. At leve delictum est: omnia peccata sunt paria. Dixisti: quippe jam fixum et statutum est. Non re ductus es, sed opinione: sapiens nihil opinatur. Errasti aliqua in re: maledici putat. Hac ex disciplina nobis illa sunt: "Dixi in senatu me nomen consularis candidati delaturum." Iratus dixisti. "Numquam," inquit, "sapiens irascitur." At temporis caussa. "Improbi, inquit, hominis est, mendacio fallere; mutare sententiam turpe est; exorari scelus;

same as followers. Compare Livy, i. 18; and Tacitus, Hist. iii. 81: "Studium philosophiae et placita Stoicorum aemulatus."

30. *inductus*,] 'Misled;' so it is explained. It may have the same meaning in "P. Lentulus—inductus a vatibus" (In Cat. iv. 1).

Petunt aliquid publicani:] In what follows there is a question or a supposed case, and the answer; but I purposely omit the mark of interrogation.

Cato was the man who looked after the treasury. He watched the jobbers, and they hated him. His resistance to one of the impudent demands of the Publicani is recorded by Cicero (Ad Att. i. 17). Plutarch (Cato Min. c. 16) gives an amusing account of his activity when he was in the treasury; when he was Quaestor.

Dixisti: quippe jam] The codd. and old editions have here 'Dixisti: quippe jam.' Manutius wrote 'Dixisti quippiam: fixum,' &c.; and Halm has followed. Nothing could be more unmeaning and frigid than the emendation. 'Dixisti:' 'you have said it; that is all.' The answer is, 'Quippe jam fixum:' 'why, it is determined; it is not said only.' The Stoic did not speak without thinking. When he spoke it was to say what was certain, not merely to utter words. Lambinus saw the meaning, and wrote the passage thus: 'Dixisti. Quippe fixum,' &c.; and he says that he found this pointing to his great delight confirmed by an old MS. He omits 'jam.' As to 'quippe,' compare Vol. II. Pro Caecina, c. 19: 'Quippe: quid enim,' &c.

sapiens nihil opinatur.] The word is explained by the context, and by what follows, "sapientem saepe aliquid opinari quod nesciat." The certain knowledge was κατάληψις, a seizing of a thing, a comprehension (Cic. Acad. Pr. ii. 47). So Antoninus 'comprehended' the existence of the gods, because he saw their works (xii. 28). Opinion was ὑπόληψις.

At temporis caussa.] "But you said it on a particular occasion;" it was a remark for the time, and not for all time. This is a common expression in Cicero (Vol. II. Pro Q. Rosc. Com. c. 17).

misereri flagitium." Nostri autem illi, fatebor enim, Cato, me quoque in adolescentia diffisum ingenio meo quaesisse adjumenta doctrinae, nostri, inquam, illi a Platone et Aristotele, moderati homines et temperati, aiunt apud sapientem valere aliquando gratiam; viri boni esse misereri: distincta esse genera delictorum et dispares poenas; esse apud hominem constantem ignoscendi locum; ipsum sapientem saepe aliquid opinari quod nesciat; irasci nonnumquam; exorari eundem et placari; quod dixerit interdum, si ita rectius sit, mutare; de sententia decedere aliquando; omnes virtutes mediocritate quadam esse moderatas. XXXI. Hos ad magistros si qua te fortuna, Cato, cum ista natura detulisset, non tu quidem vir melior esses, nec fortior, nec temperantior, nec justior, neque enim esse potes, sed paullo ad lenitatem propensior. Non accusares nullis adductus inimicitiis, nulla lacessitus injuria, pudentissimum hominem, summa dignitate atque honestate praeditum; putares, quum in ejusdem anni custodia te atque L. Murenam fortuna posuisset, aliquo te cum hoc rei publicae vinculo esse conjunctum; quod atrociter in senatu dixisti, aut non dixisses aut seposuisses aut mitiorem in partem interpretarere. Ac te ipsum, quantum ego opinione auguror, nunc et animi quodam impetu concitatum, et vi naturae atque ingenii elatum, et recentibus praeceptorum studiis flagrantem jam usus flectet, dies leniet, aetas mitigabit. Etenim isti ipsi mihi videntur vestri praeceptores et virtutis magistri fines officiorum paullo longius quam natura vellet protulisse, ut, quum ad ultimum animo contendissemus, ibi tamen ubi oporteret consisteremus. "Nihil ignoveris." Immo aliquid, non omnia. "Nihil gratiae caussa feceris." Immo resistito gratiae, quum officium et fides postulabit. "Misericordia commotus ne sis." Etiam in dissolvenda severitate; sed tamen est laus aliqua

mediocritate quadam] Virtue lies between two extremes: as courage between cowardice and rashness. Μεσότης τις ἄρα ἐστὶν ἡ ἀρετὴ στοχαστική γ' οὖσα τοῦ μέσου. (Aristot. Eth. Nic. ii. 6.)

31. *ejusdem anni*] Murena as consul, Cato as tr. pl.—'aut seposuisses:' this is not clear. Various attempts have been made to mend it. The meaning seems to be that you would either not have uttered the things, or you would have kept them on one side, out of the way.

vestri praeceptores] He could not well have said 'tui.' He says 'your masters and your friends,' meaning the masters of Cato and those who were of Cato's opinions.

protulisse, ut,] This 'ut' presents the same difficulty as 'ita—ut,' c. 28: "Your teachers have extended the boundaries of our moral duties somewhat beyond the natural limits, meaning however that though you should go to the very extreme in speculation, you should stop in practice at the proper point." Lambinus preferred 'non consisteremus,' which is contrary to the meaning.

caussa feceris.] Some MSS. have 'confeceris,' G. has 'cum feceris.' Two have 'concesseris.' Halm has 'cesseris.'

Etiam in dissolvenda] The doctrine 'nihil ignoveris,' 'nihil gratiae caussa feceris,' is corrected by the answer 'Immo,'

humanitatis. "In sententia permaneto." Vero, nisi sententiam alia vicerit melior. Hujuscemodi Scipio ille fuit, quem non poenitebat facere idem quod tu; habere eruditissimum hominem Panaetium domi, cujûs oratione et praeceptis, quamquam erant eadem ista quae te delectant, tamen asperior non est factus, sed, ut accepi a senibus, lenissimus. Quis vero C. Laelio comior? quis jucundior eodem ex studio isto? quis illo gravior, sapientior? Possum de L. Philo, de C. Gallo dicere haec eadem: sed te domum jam deducam tuam. Quemquamne existimas Catone, proavo tuo, commodiorem, communiorem, moderatiorem fuisse, ad omnem rationem humanitatis? de cujus praestanti virtute quum vere graviterque diceres, domesticum te habere dixisti exemplum ad imitandum. Est illud quidem exemplum tibi propositum domi; sed tamen naturae similitudo illius ad te magis qui ab illo ortus es quam ad unum quemque nostrum pervenire potuit: ad imitandum vero tam

which may here be expressed by 'yes:' 'yes some, not all;' 'yes, resist favour when duty and good faith shall require it.' To the third, "Be not moved by compassion," the answer is still a concession, Yes; but the words which follow are obscure. Halm rewrites it thus: "Etiam; sed tamen in dissolvenda severitate est laus aliqua humanitatis." But the text is the MSS. reading, and it may mean, as Manutius says: "Yes, be not moved by compassion to the dissolution of severity; but," &c.—'nisi sententiam sententia alia vicerit melior:' this is the reading of several MSS., followed by Halm.

Panaetium domi,] One of the Lagomarsini MSS. The other readings are 'et paene divinum,' 'et paene domi,' and other varieties. The Stoic Panaetius lodged with Scipio Africanus the younger. It was the fashion for distinguished Romans to keep Greek philosophers in their houses. Cicero had Diodotus with him, and kept him in his house for many years, till he died (Acad. ii. 36; Brutus, c. 90). Panaetius had the merit of being a clear writer, and we may perhaps infer that he was a good teacher. His work De Officiis (περὶ τοῦ καθήκοντος) was the foundation of Cicero's treatise (De Off. iii. 2; Ad Att. xvi. 11): "Panaetius igitur qui sine controversia de officiis accuratissime disputavit quemque nos correctione quadam adhibita potissimum secuti sumus."

C. Laelio] The friend of Scipio the younger, who also cultivated philosophy (Pro Archia, c. 7). Cicero has entitled his discourse on Friendship 'Laelius,' for Laelius, the friend of the younger Africanus, is the chief speaker in the dialogue.

L. Philo,] The MSS. have L. Philippo, but it is probably a mistake. Manutius made the correction. Philippus was an orator (Brutus, c. 47), of whom Cicero says: "Summa libertas in oratione, multae facetiae; satis creber in reperiendis, solutus in explicandis sententiis, erat enim imprimis, ut temporibus illis, Graecis doctrinis institutus." Horace (Ep. i. 7) has a story about him which is an example of his 'facetiae.' L. Furius Philus is mentioned in the oration Pro Archia with Laelius. He was a man of good character and great acquirements: "P. Africano, C. Laelio, L. Furio, qui secum eruditissimos homines ex Graecia palam semper habuerunt." The correction of Manutius seems to be certain.

C. Sulpicius Gallus was an astronomer, and in the war against Perses, king of Macedonia (B.C. 187), he predicted an eclipse, and told the soldiers not to be afraid of it (Livy, 44 c. 37; De Senectute, c. 14).

communiorem,] There is also a reading 'comiorem.' Cicero often uses 'communis,' as in De Sen c. 17: 'communem erga Lysandrum,' if the reading is right: and De Am. c. 18: "Simplicem praeterea et communem et consentientem qui rebus iisdem moveatur eligi par est." Communis is one who puts himself on a footing of equality with others. Some critics have preferred 'comiorem' in this passage, because it is said that 'communis' is not used in the comparative, except in this example (Ad Fam. iv. 9): "Eum magis communem censemus in victoria futurum fuisse quam incertis in rebus fuisset."—'qui ab:' 'quoniam ab,' Halm.

mihi propositum exemplar illud est quam tibi. Sed si illius comitatem et facilitatem tuae gravitati severitatique asperseris, non ista quidem erunt meliora, quae nunc sunt optima, sed certe condita jucundius.

XXXII. Quare, ut ad id quod institui revertar, tolle mihi e caussa nomen Catonis; remove ac praetermitte auctoritatem, quae in judiciis aut nihil valere aut ad salutem debet valere; congredere mecum criminibus ipsis. Quid accusas, Cato? quid affers ad judicium, quid arguis? Ambitum accusas? non defendo. Me reprehendis quod idem defendam quod lege punierim. Punivi ambitum, non innocentiam. Ambitum vero ipsum vel tecum accusabo, si voles. Dixisti senatus consultum me referente esse factum: Si mercede conducti obviam candidatis issent, si conducti sectarentur, si gladiatoribus vulgo locus tributim, et item prandia si vulgo essent data, contra legem Calpurniam factum videri.—Ergo ita senatus judicat contra legem facta haec videri, si facta sint: decernit, quod nihil opus est, dum candidatis morem gerit. Nam factum sit necne vehementer quaeritur. Si factum sit, quin contra legem sit dubitare nemo potest. Est igitur ridiculum, quod est dubium, id relinquere incertum; quod nemini dubium potest esse, id judicare. Atque id decernitur omnibus postulantibus candidatis, ut ex senatus consulto neque cujus intersit neque contra quem sit intelligi possit. Quare doce ab L. Murena illa esse commissa: tum egomet tibi contra legem commissa esse concedam.

XXXIII. 'Multi obviam prodierunt de provincia decedenti,

32. *senatus consultum*] A Senatus consultum was passed at the request of the candidates to explain the Lex Calpurnia. The Lex forbade hired men going to meet the candidates, or following them: it forbade places being assigned at the exhibition of gladiators (gladiatores) to the several tribes; and it forbade treating (prandia) the people in numbers or generally (vulgo). Graevius says that it was permitted to give free places to individuals, but not to whole tribes. If 'tributim' is right, we learn that free places could not be assigned to a whole 'tribus;' and if they were, we do not see how each man's place was secured, unless those got the places who came first; and we learn that men did come to public exhibitions soon after midnight to secure their places, and they sat there till the amusement began, as we now do when a man or a woman is to be hanged in London: "Inquietatus fremitu gratuita in Circo loca de media nocte occupantium omnes fustibus abegit." (Sueton. Calig. c. 26.) Halm has 'tributus' after two MSS.

Ergo ita] Halm prints the passage thus: "Ergo ita senatus si judicat, contra legem facta haec videri, si facta sint, decernit, quod nihil opus est, dum omnibus candidatis morem gerit." It seems that to please the candidates who talked about bribery being practised at the canvass, the Senate by a resolution (decretum) declared how they understood the Lex. But the declaration was useless. The Senate could not alter the Lex; and if a man was tried for Ambitus, he was not tried by the Senate, but by Judices, some of whom would be Senators. It seems to have been an irregular way of getting at the opinion of the Senate or of those Senators who might act as Judices at any future trial for Ambitus under the Lex Calpurnia.

consulatum petenti.' Solet fieri. Eccui autem non proditur revertenti? 'Quae fuit ista multitudo?' Primum, si tibi istam rationem non possum reddere, quid habet admirationis, tali viro advenienti, candidato consulari, obviam prodisse multos? Quod nisi esset factum, magis mirandum videretur. Quid si etiam illud addam, quod a consuetudine non abhorret, rogatos esse multos, num aut criminosum sit aut mirandum, qua in civitate rogati infimorum hominum filios prope de nocte ex ultima saepe urbe deductum venire soleamus, in ea non esse gravatos homines, prodire hora tertia in campum Martium, praesertim talis viri nomine rogatos. Quid si omnes societates venerunt, quarum ex numero multi hic sedent judices; quid si multi homines nostri ordinis honestissimi; quid si illa officiosissima, quae neminem patitur non honeste in urbem introire, tota natio candidatorum. Si denique ipse accusator noster Postumius obviam cum bene magna caterva sua venit, quid habet ista multitudo admirationis? Omitto clientes, vicinos, tribules, exercitum totum Luculli, qui ad triumphum per eos dies venerat: hoc dico, frequentiam in isto officio gratuitam non modo dignitati ullius umquam sed ne voluntati quidem defuisse. 'At

33. *infimorum hominum*] The sons of men even of the lowest rank were sometimes attended to the Campus by persons of whom they asked the favour, when they were candidates for some place, whatever it might be.—'prope de nocte:' this means literally almost by night (see c. 9); but it really means almost immediately after midnight, as 'de die' means 'after midday.' It seems as if 'de nocte,' 'de die' were used in this sense, when the full expression would be 'de media nocte,' 'de medio die.' Censorinus (De die natali, c. 24) says: "Incipiam a media nocte quod tempus principium et postremum est diei Romani (civilis). Tempus quod huic proximum est vocatur De media nocte: sequitur Gallicinium—tunc meridies, quod est medii diei nomen; inde De meridie; hinc Suprema." The French language has two expressions, 'de nuit' (de nocte) means 'by night,' 'in the night time;' 'dès la nuit' means 'as soon as night begins,' at 'night fall;' one of the examples of the precision of this language, which is also one of the proofs of a clear and precise way of thinking.

societates] The associations for farming the taxes, the Publicani, men of the equestrian class, as the words 'hic sedent judices' show.

natio candidatorum.] The whole breed of candidates for all kinds of places. They all showed themselves to the people when they could. They obliged others in order to be obliged in return. Cicero (In Pison. c. 23) says: "Dico venisse paene neminem, ne de officiosissima quidem natione candidatorum, quum vulgo essent et illo ipso et multis ante diebus admoniti et rogati.'—'bene magna:' 'with a very large body,' for so 'bene' means. So Horace says (Sat. i. 3. v. 61):—

> "—— pro bene sano
> Ac non incauto fictum astutumque vocamus."

'Male' has sometimes the same meaning, as (Hor. Sat. i. 1. v. 45):—

> "—— male parvus
> Si cui filius est."

But the sense of 'male' when joined to an adjective will depend on the context, for 'male sanus' is quite different from 'bene sanus.'

non modo—ullius] "Malim *non modo non*: vereor enim ut, cum sequatur *ullius umquam*, negatio deesse possit." Halm. Perhaps he is right. Compare Vol. I. Verr. ii. 3. c. 48: "multis autem non modo granum nullum sed ne paleae quidem relinquerentur;" 4. c. 22: "non modo oppidum nullum," &c; and Vol. II. Pro Sex. Ros. Am. c. 52: "in quo non modo culpa

sectabantur multi.' Doce mercede: concedam esse crimen. Hoc quidem remoto, quid reprehendis? XXXIV. 'Quid opus est,' inquit, 'sectatoribus?' A me tu id quaeris, quid opus sit eo quo semper usi sumus? Homines tenues unum habent in nostrum ordinem aut promerendi aut referendi beneficii locum, hanc in nostris petitionibus operam atque assectationem. Neque enim fieri potest, neque postulandum est a nobis aut ab equitibus Romanis, ut suos necessarios candidatos assectentur totos dies; a quibus si domus nostra celebratur, si interdum ad forum deducimur, si uno basilicae spatio honestamur, diligenter observari videmur et coli: tenuiorum amicorum et non occupatorum est ista assiduitas, quorum copia bonis viris et beneficis deesse non solet. Noli igitur eripere hunc inferiori generi hominum fructum officii, Cato: sine eos, qui omnia a nobis sperant, habere ipsos quoque aliquid quod nobis tribuere possint. Si nihil erit praeter ipsorum suffragium, tenue est, si ut suffragantur nihil valent gratia. Ipsi denique, ut solent loqui, non dicere pro nobis, non spondere, non vocare domum suam possunt; atque haec a nobis petunt omnia: neque ulla re alia, quae a nobis consequuntur, nisi opera sua, compensari putant posse. Itaque et legi Fabiae, quae est de numero sectatorum, et senatus consulto, quod est L. Caesare consule factum, restiterunt. Nulla est enim poena quae possit observantiam tenuiorum ab hoc vetere instituto officiorum excludere. 'At spectacula sunt tributim

nulla, sed ne suspicio quidem potuit consistere."

34. *referendi*] The reading of v. The MSS., so far as we know, have 'proferendi,' which may be explained. Mommsen proposes 'offerendi.'

celebratur,] 'Is visited.' See Vol. I. Verr. ii. 1. c. 26. Cicero has collected in one passage (De Sen. c. 18) all the forms of paying respect: "Haec enim ipsa sunt honorabilia quae videntur levia atque communia, salutari, appeti, decedi, assurgi, deduci, reduci, consuli."—'uno basilicae spatio:' a single turn in a basilica. Cicero says (De Or. i. 7), "tum Scaevolam duobus spatiis tribusve factis dixisse." See Vol. I. Verr. ii. 4. c. 3, note on 'Basilica.' The Basilicae were so constructed as to allow walking room under cover.

ut suffragantur] Two MSS. have 'ut suffragentur.' Mommsen proposes 'si qui suffragantur nihil valent gratia.' I think that this is the meaning; but it is precisely the same meaning, if the text stands unaltered, and is pointed as I have pointed it, instead of a semicolon being put after 'tenue est.' Halm proposes: "tenue est, si tantum suffragantur, nihil valent gratia." But this is what Cicero says.

loqui,] 'Loqui' means to speak generally, but 'dicere' is the word that means an orator's speaking. 'Spondere' means to be a 'sponsor,' to say the formal word 'spondeo.' Vols. I. II. Index.

legi Fabiae,] Nothing is known of this Lex except what Cicero tells us here. It made some enactment against the number of 'sectatores.' Q. Cicero in his address to Marcus, De Petitione consulatus, has a chapter (c. 9) on 'salutatores,' 'deductores,' 'assectatores.' This Senatus consultum was made in the consulship of L. Caesar (B.C. 64), but no Lex was enacted owing to the 'intercessio' of a tr. pl., as Asconius says in the Argumentum to the Oratio In Toga Candida: "Censuerat senatus ut lex ambitus aucta etiam cum poena ferretur, eique rei Q. Mucius Orestinus tr. pl. intercesserat."

At—vocati] "But," says Cato, "there were the places at the shows given to the

data, et ad prandium vulgo vocati.' Etsi hoc factum a Murena omnino, judices, non est, ab ejus amicis autem more et modo factum est, tamen admonitus re ipsa recordor quantum hae conquestiones in senatu habitae punctorum nobis, Servi, detraxerint. Quod enim tempus fuit aut nostra aut patrum nostrorum memoria, quo haec sive ambitio est sive liberalitas non fuerit, ut locus et in circo et in foro daretur amicis et tribulibus? Haec homines tenuiores * * a suis tribulibus vetere instituto assequebantur * * *

(*Desunt pauca.*)

several tribes, and the people were all invited to eat and drink." We do not know how the treating was done; whether the inns were opened, or the people sat down under tents, or under porticos or in spacious halls. However no doubt there were plenty of innkeepers and others ready to provide the feast for the money. Cicero merely denies that Murena treated: he admits that his friends did; and it was a good old fashion. We have statutes against treating electors. The 7 and 8 William III. c. 4 is called the Treating Act. It forbids the candidate after the date of the writs, or after the ordering of the writs, or after any vacancy to give money or entertainment to his electors, or promise to give any in order to be elected under pain—of what? being incapable of serving for that place in parliament. What could be more gentle? The honourable candidate did not give. Some Natta gave for him. This act was found insufficient to prevent treating; and it required the experience of all the time from the reign of William III. to the reign of Victoria to make the discovery. The 5 and 6 Victoria, c. 102, a very virtuous act, goes further (§ 22), and in verbose and heavy words threatens the candidate, or person elected, if he "shall by himself or by or with any person, or in any manner directly or indirectly give or provide or cause or knowingly allow to be given or provided wholly or partly at his expense, or pay wholly or in part any expenses incurred for any meat, drink, entertainment, or provision to or for any person at any time either before, during, or after such election, for the purpose of corruptly influencing such person or any other person to give or to refrain from giving his vote in any such election, or for the purpose of corruptly rewarding such person or any other person for having given or refrained from giving his vote at any such election—he shall be incapable of being elected or sitting for the particular county, &c., during the parliament for which such election shall be holden." What would Cicero have said to all this rubbish? So careful is the legislator that he even forbids treating after an election, when the purpose is to induce a voter to give a corrupt vote at the election. Yet after all the pains the legislator has taken, Natta does the job for the candidate, and treats and bribes, and when inquiry is made, Natta is proved to be the guilty man, and the candidate is so innocent that he knows nothing of it. Natta is generally Nobody.

hae conquestiones] He seems to mean the talk in the senate and the complaints made about such matters as led to the Senatus consultum; and he says that 'we,' all of us, my client and yourself Servius lost votes by this talk and inquiry. The people were displeased and would not vote. 'Punctum' is a vote (Pro Cn. Plancio, c. 22), for the voters pricked on the tablet the name of the candidate for whom they voted, as the passage in Festus (v. Suffragatores) seems to mean.

"Omne tulit punctum qui miscuit utile dulci." (Horace, Ars Poet. v. 343.)

in foro] The old fashion was to exhibit the gladiators in the Forum. There was no amphitheatre in Rome at this time. The people saw the fights from scaffoldings and balconies (maeniana). Plutarch (C. Gracchus, c. 12) says: "The people were going to see an exhibition of gladiators in the Forum, and most of the magistrates had constructed seats round the place, with the intention of letting them for hire. But Caius urged them to remove the seats, that the poor might be able to see the show without paying." Compare Livy, 23. c. 30; 31. c. 50; Cicero, Pro Sestio, c. 58; Propertius, iv. 8. 76; references of Becker, Handbuch der Röm. Alterthümer, i. 325.

XXXV. * * praefectum fabrum semel locum tribulibus suis dedisse, quid statuent in viros primarios, qui in circo totas tabernas tribulium caussa compararunt? Haec omnia sectatorum, spectaculorum, prandiorum item crimina a multitudine in tuam nimiam diligentiam, Servi, conjecta sunt; in quibus tamen Murena ab senatus auctoritate defenditur. Quid enim, Senatus num obviam prodire crimen putat? Non; sed mercede. Convince. Num sectari multos? Non; sed conductos. Doce. Num locum ad spectandum dare, aut ad prandium invitare? Minime. Sed vulgo, [passim]. Quid est vulgo? Universos. Non igitur, si L. Natta, summo loco adolescens, qui et quo animo jam sit et qualis vir futurus sit videmus, in equitum centuriis voluit esse et ad hoc officium necessitudinis et ad reliquum tempus gratiosus, id erit ejus vitrico fraudi aut crimini: nec, si virgo Vestalis, hujus propinqua et necessaria, locum suum gladiatorium concessit huic, non et illa pie fecit, et hic a culpa est remotus. Omnia haec sunt officia necessariorum, commoda tenuiorum, munia candidatorum.

At enim agit mecum austere et Stoice Cato. Negat verum esse allici benevolentiam cibo; negat judicium hominum in magistratibus mandandis corrumpi voluptatibus oportere. Ergo ad caenam petitionis caussa si quis vocat condemnetur. Quippe, inquit, tu mihi summum imperium, tu summam auctoritatem, tu gubernacula rei publicae petas fovendis hominum sensibus et deliniendis animis et adhibendis voluptatibus? Utrum lenocinium, inquit, a grege delicatae juventutis, an orbis terrarum imperium a populo Romano petebas? Horribilis oratio: sed eam usus, vita, mores, civitas ipsa respuit. Neque tamen Lacedaemonii, auctores istius vitae atque

35. *praefectum*] The beginning of the chapter is defective, but the meaning seems to be this: "If a 'praefectus fabrum' is blamed for having once assigned a place for the members of his tribe, what must be said or done about those who have erected whole booths in the circus for their tribesmen?" The 'tabernae' are explained by the extract from Plutarch, c. 34.

conjecta sunt;] He says that all the charges which Servius made were laid by the people to the account of his excessive eagerness to get up a prosecution.

L. Natta,] He was afterwards a Pontifex and consecrated to public use the ground on which Cicero's house stood (Cicero, Pro Domo, c. 52).

Vestalis,] The holy virgins, on whose chastity and vigilance depended the destinies of Rome, used to go to the gladiators' fights like the rabble of Rome. They had a place assigned to them.

verum esse] 'Not right,' 'not reasonable.' Pro P. Quintio, c. 15.—'cenam,' Halm.

lenocinium,] The meaning of the word must be got by looking at the other side of the question. It is contrasted with 'orbis terrarum imperium.' "Was it," he says, "the office of pander that you were soliciting from a crowd of effeminate youths, or the government of the world from the Roman people?" "Terrible talk," says Cicero sarcastically.

Lacedaemonii,] They used wooden benches at their meals as we are told here, but they showed no particular strictness in this, for thousands now take their meals on a wooden seat or bench, and no doubt a wooden

orationis, qui quotidianis epulis in robore accumbunt, neque vero Cretes, quorum nemo gustavit unquam cubans, melius quam Romani homines, qui tempora voluptatis laborisque dispertiunt, res publicas suas retinuerunt: quorum alteri uno adventu nostri exercitus deleti sunt, alteri nostri imperii praesidio disciplinam suam legesque conservant. XXXVI. Quare noli, Cato, majorum instituta, quae res ipsa, quae diuturnitas imperii comprobat, nimium severa oratione reprehendere. Fuit eodem ex studio vir eruditus apud patres nostros, et honestus homo et nobilis, Q. Tubero. Is, quum epulum Q. Maximus P. Africani patrui sui nomine populo Romano daret, rogatus est a Maximo ut triclinium sterneret, quum esset Tubero ejusdem Africani sororis filius. Atque ille, homo eruditissimus ac Stoicus, stravit pelliculis haedinis lectulos Puni-

bench or stool must have been the only seat that poor people have had in all ages.

Cretes.] It is said that they did not recline when they ate, but they ate sitting. Polybius (vi. 46) has something on the Cretan polity and their character, which is not to their credit. The Cretans had a bad character: they were greedy after gain and great liars. Their men sold themselves to foreign states for gain, and served as mercenaries. Q. Caecilius Metellus, surnamed Creticus, conquered the island B.C. 67. It took him somewhat more than two years, and there was some hard fighting. Cicero's history, as usual, is inaccurate. He made history serve his purpose. His style of talking is curious. The Roman who reclined at his meals subdued the Cretan who did not. There were better reasons than this for Crete yielding to the victorious arms of Rome. The Cretans were a small nation, and not a united people. They quarrelled among themselves. The institutions of Lycurgus still subsisted at Sparta seven hundred years after the assumed date of their establishment; if not in their original strictness, in a form at least, as Cicero tells us.

36. *Q. Tubero.*] Q. Aelius Tubero was the son of one of L. Aemilius Paullus' two daughters by his second marriage. The two sons of Paullus by his first marriage were adopted severally by Q. Fabius Maximus and by P. Cornelius Scipio, the son of Africanus Major. Thus the eldest son of Paullus became Q. Fabius Maximus Aemilianus, and his brother became P. Cornelius Scipio Aemilianus, to which after the conquest of Carthage was added the name of Africanus Minor. This Q. Fabius Maximus (c. 36) was the son of Aemilianus, and the conqueror of the Allobroges, from which victory he had the name Allobrogicus; and he gave the banquet on the occasion of Scipio's death B.C. 129.

This Tubero the Stoic was a jurist and a man of sense, who did not like to spend his money foolishly in feeding greedy people. Seneca (Ep. 95) commends Tubero, and says that the gold and silver vessels of the luxurious Romans have been broken and melted, but that Tubero's earthen vessels shall last for ever. Valerius Maximus (vii. 5) has copied this story of Tubero from Cicero.

triclinium sterneret.] This means to spread the cushions at the tables for the honoured guests to sit soft; but this is merely a form of speech. Tubero was asked to provide a table and all that was necessary for a feast. We get a good measure of what Rome was by such stories. The nobles gave great entertainments sometimes to large bodies of people, who came with pleasure to feed at the great man's cost. These delicate fellows who ate at another man's expense were displeased with Tubero's goat-skin seats; they wanted something finer. They liked not his wooden couches (lectuli Punicani), nor his crockery from Samos, which was a common kind of earthenware. Couches inlaid with ivory or silver, and bronze vessels from Delos or Corinth would have been the right thing. Through this misapplication of his philosophy (perversa sapientia) Tubero failed in his candidateship for the praetorship in B.C. 129, but he was elected in B.C. 123. Cicero esteemed Tubero's character, and he has made him one of the speakers in his De Re Publica. See Mai's Praefatio to the De Re Publica.

canos et exposuit vasa Samia; quasi vero esset Diogenes Cynicus mortuus, et non divini hominis Africani mors honestaretur: quem quum supremo ejus die Maximus laudaret, gratias egit diis immortalibus, quod ille vir in hac re publica potissimum natus esset; necesse enim fuisse, ibi esse terrarum imperium, ubi ille esset. Hujus in morte celebranda graviter tulit populus Romanus hanc perversam sapientiam Tuberonis. Itaque homo integerrimus, civis optimus, quum esset L. Paulli nepos, P. Africani, ut dixi, sororis filius, his haedinis pelliculis praetura dejectus est. Odit populus Romanus privatam luxuriam, publicam magnificentiam diligit: non amat profusas epulas, sordes et inhumanitatem multo minus. Distinguit rationem officiorum ac temporum, vicissitudinem laboris ac voluptatis. Nam quod ais, nulla re allici hominum mentes oportere ad magistratum mandandum nisi dignitate, hoc tu ipse, in quo summa est dignitas, non servas. Cur enim quemquam ut studeat tibi, ut te adjuvet rogas? Rogas tu me, ut mihi praesis, ut committam ego me tibi. Quid tandem, istuc me rogari oportet abs te, an te potius a me, ut pro mea salute laborem periculumque suscipias? Quid, quod habes nomenclatorem, in eo quidem fallis et decipis. Nam si nomine appellari abs te cives tuos honestum est, turpe est eos notiores esse servo tuo quam tibi. Sin etiam si noris tamen per monitorem appellandi sunt, cur ante petis quam

Maximus laudaret,] This was the funeral oration pronounced after Roman fashion over Scipio by his nephew on the day of Scipio's death.

rogari oportet] Cicero handles all this matter very ingeniously. The candidate should not even ask for men's votes: men should ask him to take the trouble to look after their interests and the public weal. This is quite true, but it is seldom done.

nomenclatorem,] A slave who knew every body's name and prompted the candidate; for people liked to be addressed by their name by a great person:

> "—— gaudent praenomine molles
> Auriculae."
>
> (Horace, Sat. ii. 5. v. 32.)

Horace describes the nomenclator (Ep. i. 6. v. 50):—

> "Mercemur servum qui dictet nomina, laevum
> Qui fodicet latus et cogat trans pondera dextram
> Porrigere: Hic multum in Fabia valet, ille Velina."

Plutarch says that Cato had no nomenclator (Cato Min. c. 8):—"When a law was made, that those who were candidates for an office should not be accompanied by nomenclators, he was the only person when a candidate for a tribuneship who observed the law; and having himself made it his business to salute and address those whom he met with, he did not escape censure even from those who praised him; for the more they perceived the honourable nature of his conduct, the more they were annoyed at the difficulty of imitating it." There are several good lessons here.

cur ante petis] G. has 'petunt.' Lambinus says that 'libri veteres'—he does not say how many or what 'libri veteres'—have 'pellis,' out of which he makes 'appellas;' and this is so plain, he says, that it is its own evidence. Orelli conjectures 'prendis' or 'prensas.' This sentence is not clear. I do not see how Lambinus or Orelli's emendation helps the meaning. Cicero is always difficult when he is making a subtle argument, and sometimes the solution of the difficulty is the discovery of the fact that he is trifling and saying nothing. He

insusurravit? aut quid quum admoneris, tamen quasi tute noris ita salutas? quid, posteaquam es designatus, multo salutas negligentius? Haec omnia ad rationem civitatis si dirigas, recta sunt: sin perpendere ad disciplinae praecepta velis, reperiantur pravissima. Quare nec plebi Romanae eripiendi fructus isti sunt ludorum, gladiatorum, conviviorum, quae omnia majores nostri comparaverunt; nec candidatis ista benignitas adimenda est, quae liberalitatem magis significat quam largitionem.

XXXVII. At enim te ad accusandum res publica adduxit. Credo, Cato, te isto animo atque ea opinione venisse. Sed tu imprudentia laberis. Ego quod facio, judices, quum amicitiae dignitatisque L. Murenae gratia facio, tum me pacis, otii, concordiae, libertatis, salutis, vitae denique omnium nostrum caussa facere clamo atque testor. Audite, audite consulem, judices, nihil dicam arrogantius, tantum dicam, totos dies atque noctes de re publica cogitantem. Non usque eo L. Catilina rem publicam despexit atque contempsit, ut ea copia quam secum eduxit se hanc civitatem oppressurum arbitraretur. Latius patet illius sceleris contagio quam quisquam putat; ad plures pertinet. Intus, intus, inquam, est equus Trojanus, a quo numquam me consule dormientes opprimemini. Quaeris a me, quid ego Catilinam metuam. Nihil; et curavi ne quis metueret; sed copias illius, quas hic video, dico esse metuendas: nec tam timendus est nunc exercitus L. Catilinae quam isti, qui illum exercitum deseruisse dicuntur. Non enim deseruerunt; sed ab illo in speculis atque insidiis relicti, in capite atque in cervicibus nostris restiterunt. Hi et integrum consulem et bonum imperatorem, et natura et fortuna cum rei publicae salute conjunc-

wishes to prove that what Cato and others did is inconsistent. He wishes to prove that a candidate does not want a nomenclator, whether he knows the people or not.

'Petere' is said generally of canvassing. The argument runs thus: "For if it is right that you should address your fellow citizens by name, it is wrong for your slave to know them better than yourself. But if, even though you should know them, they should still be addressed through the aid of a nomenclator, why do you address them before he has whispered the name in your ear? Or why, when he reminds you of the name, do you address the person as if you knew him yourself?" "In 'Sin etiam si' the 'si' is due to Lambinus. None of Halm's MSS. have it; and yet it seems necessary. If there is no authority for the 'si,' and if we will not accept it from Lambinus, we must write, "Sin etiam noris, tamen per monitorem appellandi? cur ante petis quam insusurravit?" to which I see no objection, except that something is wanted between 'cur' and 'ante,' for as it now stands, it seems plain that it is the concluding part of the sentence which begins with 'Sin etiam.'

recta sunt:—reperiantur] Perhaps it should be 'dirigis.' G. has 'sed dirigis.' Halm is inclined to take 'reperientur,' the reading of E.; but 'reperiantur' is right.

37. *Intus,—equus Trojanus,*] This among other passages shows that the conspirators were not yet seized in the city. The story of the Trojan horse is well known (Virgil, Aen. ii.; Odyss. iv. 272).—'in insidiis,' Halm; but 'in' is not in the MSS.

tum, dejici de urbis praesidio et de custodia civitatis vestris sententiis deturbari volunt. Quorum ego ferrum et audaciam rejeci in campo, debilitavi in foro, compressi etiam domi meae saepe, judices; his vos si alterum consulem tradideritis, plus multo erunt vestris sententiis quam suis gladiis consecuti. Magni interest, judices, id quod ego multis repugnantibus egi atque perfeci, esse Kalendis Jan. in re publica duo consules. Nolite arbitrari, mediocribus consiliis aut usitatis viis aut * *. Non lex improba, non perniciosa largitio, non auditum aliquando aliquod malum rei publicae quaeritur. Inita sunt in hac civitate consilia, judices, urbis delendae, civium trucidandorum, nominis Romani exstinguendi. Atque haec cives, cives, inquam, si eos hoc nomine appellari fas est, de patria sua et cogitant et cogitaverunt. Horum ego quotidie consiliis occurro, audaciam debilito, sceleri resisto. Sed moneo, judices: in exitu jam est meus consulatus; nolite mihi subtrahere vicarium meae diligentiae; nolite adimere eum cui rem publicam cupio tradere incolumem ab his tantis periculis defendendam.

XXXVIII. Atque ad haec mala, judices, quid accedat aliud non videtis? Te, te appello, Cato: nonne prospicis tempestatem anni tui? Jam enim hesterna contione intonuit vox perniciosa designati tribuni, collegae tui; contra quem multum tua mens, multum omnes boni providerunt, qui te ad tribunatus petitionem vocaverunt. Omnia quae per hoc triennium agitata sunt, jam ab eo tempore, quo a L. Catilina et Cn. Pisone initum consilium senatus interficiendi scitis esse, in hos dies, in hos menses, in hoc

rejeci in campo,] At the last election in the Campus Martius (c. 26, 'descendi in campum'). See the Introduction to the orations against Catilina; and In Cat. i. 5. 6. —'domi meae:' he alludes to the attempt made to assassinate him. (Introd. Cat.)

viis aut * *.] The reading 'viis' is uncertain, for there is also 'vitis,' 'votis,' and 'vitiis.' There is also a short blank after 'aut;' and the sense of what follows is consequently somewhat obscure. He says that it is by no usual ways that the enemies of the state are making their attempts. "It is no bad lex, no pernicious distribution of money, no kind of mischief ever heard of before that they are devising against the State."

consiliis occurro,] See c. 23.

vicarium] One who takes another's place.

"Defunctumque laboribus
Aequali recreat sorte vicarius."
(Horace, Carm. iii. 24.)

See Vol. I. Verr. ii. 1. c. 36.

38. *designati tribuni,*] He is supposed to mean Q. Metellus Nepos. Cato was on the road into Lucania when he heard that Metellus was going to be a candidate for the tribuneship. He immediately returned to Rome, saying to his companions who were surprised at his sudden change of plan: "Don't you know that even of himself Metellus is a formidable man by reason of his violence? and now that he has come upon the motion of Pompeius, he will fall on the state like a thunderbolt and put all in confusion." (Plutarch, Cato Minor, c. 20.) Metellus repaid Cicero for this and some other offence by preventing him from addressing the people when he retired from the consulship. (Ad Fam. v. 2; In Pis. c. 3.)

per hoc triennium] See the Introduction to the orations against Catilina on this conspiracy of Catilina and Piso.

tempus erumpunt. Qui locus est, judices, quod tempus, qui dies, quae nox, quum ego non ex istorum insidiis ac mucronibus non solum meo, sed multo etiam magis divino consilio eripiar atque evolem? Neque isti me meo nomine interfici, sed vigilantem consulem de rei publicae praesidio dimoveri volunt: nec minus vellent, Cato, te quoque aliqua ratione si possent tollere; id quod, mihi crede, et agunt et moliuntur. Vident quantum in te sit animi, quantum ingenii, quantum auctoritatis, quantum rei publicae praesidii: sed quum consulari auctoritate et auxilio spoliatam vim tribuniciam viderint, tum se facilius inermem et debilitatum te oppressuros arbitrantur. Nam ne sufficiatur consul non timent. Vident in tuorum potestate collegarum fore: sperant sibi Silanum, clarum virum, sine collega, te sine consule, rem publicam sine praesidio objici posse. His tantis in rebus tantisque in periculis est tuum, M. Cato, qui non mihi, non tibi, sed patriae natus esse videris, videre quid agatur, retinere adjutorem, defensorem, socium in re publica, consulem non cupidum, consulem, quod maxime tempus hoc postulat, fortuna constitutum ad amplexandum otium, scientia ad bellum gerendum, animo et usu ad quod velis negotium.

XXXIX. Quamquam hujusce rei potestas omnis in vobis sita est, judices: totam rem publicam vos in hac caussa tenetis, vos gubernatis. Si L. Catilina cum suo consilio nefariorum hominum, quos secum eduxit, hac de re posset judicare, condemnaret L. Murenam: si interficere posset, occideret. Petunt enim rationes illius ut orbetur auxilio res publica, ut minuatur contra suum

ne sufficiatur] "They are not afraid of a consul being elected in Murena's place." 'Sufficere' is the word used to express the election of a consul in the place of another who died in his year of office, or had abdicated. The 'comitia' for electing a new consul were summoned by the remaining consul, and as soon as possible (c. 39). Cicero says that the enemies of the state, Metellus among the rest, will find some way of preventing the election.

qui non mihi,—sed patriae]

> " —— hi mores, haec duri immota Catonis
> Secta fuit, servare modum finemque tenere,
> Naturamque sequi patriaeque impendere vitam,
> Nec sibi, sed toti genitum se credere mundo."
>
> (Lucan, Pharsalia, ii. 380.)

—'non mihi, non:' 'mihi non,' Halm.—'videris:' 'videare,' Halm.

non cupidum,] 'Rerum novarum,' says Manutius. Perhaps this is the meaning, as the words 'ad amplexandum otium' lead us to conclude.

39. *Quamquam*] He has said enough to Cato; and he has said nothing to the Judices yet. He introduces his address to the Judices by 'Quamquam,' which means, "However, let all this be as it may, all the power of the decision is with you, Judices." —'consilio:' Quintilian (Inst. v. 10, § 99) quotes the words 'Si L. Catilina—L. Murenam,' and most of his MSS. have 'consilio.' But Halm observes: "Ne quis *concilium* malit, dicitur h. l. *consilium* quasi judicum."

Petunt—rationes] "His plans require the republic to be deprived of its support." —'apud Anienem:' Hannibal came near to Rome (B.C. 211). 'Inter haec Annibal ad Anienem fluvium tria millia passuum ab urbe castra admovit." (Livy, 26. c. 10.)

furorem imperatorum copia; ut major facultas tribunis plebis detur, depulso adversario, seditionis ac discordiae concitandae. Idemne igitur delecti ex amplissimis ordinibus honestissimi atque sapientissimi viri judicabunt, quod ille importunissimus gladiator, hostis rei publicae, judicarit? Mihi credite, judices, in hac caussa non solum de L. Murenae, verum etiam de vestra salute sententiam feretis. In discrimen extremum venimus: nihil est jam unde nos reficiamus, aut ubi lapsi resistamus. Non solum minuenda non sunt auxilia quae habemus, sed etiam nova, si fieri possit, comparanda. Hostis est enim non apud Anienem, quod bello Punico gravissimum visum est, sed in urbe, in foro: dii immortales! sine gemitu hoc dici non potest: non nemo etiam in illo sacrario rei publicae, in ipsa, inquam, curia non nemo hostis est. Dii faxint ut meus collega, vir fortissimus, hoc Catilinae nefarium latrocinium armatus opprimat; ego togatus, vobis bonisque omnibus adjutoribus, hoc quod conceptum res publica periculum parturit, consilio discutiam et comprimam. Sed quid tandem fiet, si haec elapsa de manibus nostris in eum annum qui consequitur redundarint? Unus erit consul, et is non in administrando bello, sed in sufficiendo collega occupatus. Hunc jam qui impedituri sint, * * [illa pestis immanis] manus importuna Catilinae perrumpet qua poterit; * * * in agros suburbanos repente advolabit; versabitur in castris furor, in curia timor, in foro conjuratio, in campo exercitus, in agris vastitas; omni autem in sede ac loco ferrum flammamque metuemus. Quae jamdiu comparantur, eadem ista omnia, si ornata suis praesidiis erit res publica, facile et magistratuum consiliis et privatorum diligentia comprimentur.

XL. Quae quum ita sint, judices, primum rei publicae caussa, qua nulla res cuiquam potior debet esse, vos, pro mea summa et vobis cognita in re publica diligentia, moneo, pro auctoritate consulari hortor, pro magnitudine periculi obtestor, ut otio, ut paci, ut saluti, ut vitae vestrae et ceterorum civium consulatis: deinde

suum furorem] 'Summum furorem,' G. Halm.—'meus collega:' C. Antonius. Introd. to the orations against Catilina.

conceptum—parturit,—discutiam—comprimam.] The republic has conceived a danger and is near parturition, and Cicero prays that he may do—what to the monster? I hardly know. He says 'discutiam,' 'comprimam;' perhaps 'tear in pieces and strangle.' He has another metaphor soon after, 'redundavit,' a metaphor from water and the waves, which he has used sometimes very improperly. (Vol. II. De Lege Agraria ii. c. 1.) In his Orator (i. 1) he has a good use of 'redundare:' "et hoc tempus omne post consulatum objecimus iis fluctibus, qui per nos a communi peste depulsi in nosmet ipsos redundarunt."

illa pestis immanis] I have followed Halm in this passage, which is imperfect. *Manus* is Halm's conjecture.

40. *deinde – defensoris*] 'Fidem vestram vel' is the reading of M. There are great varieties, but 'fide,' or 'fidem,' or 'fides'

ego fide[m vestram, vel] defensoris et amici officio adductus, oro atque obsecro, judices, ut ne hominis miseri et quum corporis morbo, tum animi dolore confecti, L. Murenae, recentem gratulationem nova lamentatione obruatis. Modo maximo beneficio populi Romani ornatus, fortunatus videbatur, quod primus in familiam veterem, primus in municipium antiquissimum, consulatum attulisset; nunc idem squalore et sordibus confectus, lacrimis ac maerore perditus, vester est supplex, judices, vestram fidem obtestatur, misericordiam implorat, vestram potestatem ac vestras opes intuetur. Nolite, per deos immortales! judices, hac eum re qua se honestiorem fore putavit etiam ceteris ante partis honestatibus atque omni dignitate fortunaque privare. Atque ita vos si L. Murena, judices, orat atque obsecrat; si injuste neminem laesit, si nullius aures voluntatemve violavit, si nemini, ut levissime dicam, odio nec domi nec militiae fuit; sit apud vos modestiae locus, sit demissis hominibus perfugium, sit auxilium pudori. Misericordiam spoliatio consulatus magnam habere debet, judices: una enim eripiuntur cum consulatu omnia. Invidiam vero his temporibus habere consulatus ipse nullam potest: objicitur enim contionibus seditiosorum, insidiis conjuratorum, telis Catilinae; ad omne denique periculum, atque ad omnem invidiam solus opponitur. Quare quid invidendum Murenae aut cuiquam nostrum sit in hoc praeclaro consulatu non video, judices. Quae vero miseranda sunt, ea et mihi ante oculos versantur, et vos videre et perspicere potestis. XLI. Si, quod Juppiter omen avertat, hunc vestris sententiis afflixeritis, quo se miser vertet? Domumne? ut eam imaginem clarissimi viri, parentis

appears in all. I cannot accept Madvig's conjecture 'deinde ego idem vos,' which Halm has followed, though it is easily made out of the readings 'fide in vos,' 'fidem in vos.'

municipium] Lanuvium near Rome. See note on c. 41.

squalore] Some editions have "squalore sordidus, confectus morbo;" for which there is some authority. Caesar has 'vulneribus confectus,' which means 'exhausted by wounds.'

hac eum re] This means, if it is right, "Do not on account of this his consulship deprive him also of the other honours which he got before." Beck suspects that 'privare' should be 'privari;' and it is a very reasonable suspicion.

Atque ita] Halm has "Atque ita vos L. Murena—obsecrat, ut, si;" omitting the 'si' before L. Murena, for which he has some authority, but then he adds 'ut' after 'obsecrat.'

41. *quo se miser vertet?*] This is supposed to be an imitation of a passage of C. Gracchus which Cicero quotes (De Or. iii. 56): "Quid fuit in Graccho quod me puero tanto opere ferretur? 'Quo me miser conferam? quo vertam? in Capitoliumne? At fratris sanguine redundat. An domum? Matremne ut miseram lamentantem videam et abjectam?' Quae sic ab illo acta esse constabat, oculis, voce, gestu, inimici ut lacrimas tenere non possent." But Gracchus, it seems, imitated a passage in Ennius, Medea (Cicero, De Or. iii. 58):

> "Quo nunc me vertam? quod iter incipiam ingredi?
> Domum paternamne? anne ad Peliae filias?"

The original is Euripides in his Medea (v. 503).

sui, quam paucis ante diebus laureatam in sua gratulatione conspexit, eandem deformatam ignominia lugentemque videat? An ad matrem? quae misera, modo consulem osculata filium suum, nunc cruciatur et sollicita est, ne eundem paullo post spoliatum omni dignitate conspiciat? Sed quid ego matrem aut domum appello, quem nova poena legis et domo et parente et omnium suorum consuetudine conspectuque privat? Ibit igitur in exsilium miser? Quo? ad Orientisne partes, in quibus annos multos legatus fuit et exercitus duxit et res maximas gessit? At habet magnum dolorem, unde cum honore decesseris, eodem cum ignominia reverti. An se in contrariam partem terrarum abdet, ut Gallia Transalpina, quem nuper summo cum imperio libentissime viderit, eundem lugentem, maerentem, exsulem videat? In ea porro provincia quo animo C. Murenam, fratrem suum, aspiciet? Qui hujus dolor, qui illius maeror erit, quae utriusque lamentatio, quanta autem perturbatio fortunae atque sermonis, quod, quibus in locis paucis ante diebus factum esse consulem Murenam nuntii litteraeque celebrassent, et unde hospites atque amici gratulatum Romam concurrerint, repente [eo] excidet ipse nuntius suae calamitatis? Quae si acerba, si misera, si luctuosa sunt, si alienissima a mansuetudine et misericordia vestra, judices, conservate populi Romani beneficium; reddite rei publicae consulem; date hoc ipsius pudori, date patri mortuo, date generi et familiae, date etiam Lanuvio, municipio honestissimo, quod in hac tota caussa frequens maestumque vidistis. Nolite a sacris patriis Junonis Sospitae, cui omnes consules facere necesse

matrem—quem?] Halm would prefer "domum appello in eo, quem." But though the construction is defective, the text may be genuine. G. has 'quid—appellem;' and the Venice edition of 1472 has 'qui—privetur.'—'nova paena:' the penalty of exile which was in the Lex Tullia de Ambitu.

Gallia Transalpina,] Murena's province of Gallia Narbonensis, or Ulterior, as it was then sometimes called, where he left his brother C. Murena as his 'legatus.' C. Murena seized some of Catilina's partisans in Gallia Narbonensis (Sallust, Cat. c. 42).

eo excidet] "Libri veteres habent '*eo excidet*,' de qua scriptura judicet lector eruditus: ego interea malim legi *accedet* quam accedat," Lambinus. Halm has followed Guilielmius' (Johann Guilelme or Guilelmus) emendation 'existet,' and he omits 'eo.' I do not know what authority there is for 'eo.' The MSS. have either 'excidet,' 'exciderit,' or 'excideret.' I see no reason for the emendation of the learned critic, and 'excidet' is a much more emphatic word than 'existet;' though I find no example of 'excidet' exactly like this. Halm says that with 'exsistet' we must supply 'in iis locis.'

Junonis] Juno Sospita was a goddess of the Lanuvini, and she had a temple in Rome wherein the consuls made an offering annually. Livy (viii. 14): "Lanuvinis civitas data, sacraque sua reddita cum eo, ut aedes lucusque Sospitae Junonis communis Lanuvinis municipibus cum populo Romano esset." The temple of Juno Sospita was restored in Cicero's time (B.C. 90) by the consul L. Julius Caesar (De Divin. i. c. 2, and 44). Murena is called 'domesticus consul,' because his family was from Lanuvium. See Pro Milone, c. 10.

facere] The Romans sometimes said 'rem divinam facere,' and 'sacra facere,' and sometimes 'facere' only, 'to sacrifice,' or 'perform a religious ceremony.'

est, domesticum et suum consulem potissimum avellere. Quem ego vobis, si quid habet aut momenti commendatio, aut auctoritatis confirmatio mea, consul consulem, judices, ita commendo ut cupidissimum otii, studiosissimum bonorum, acerrimum contra seditionem, fortissimum in bello, inimicissimum huic conjurationi quae nunc rem publicam labefactat, futurum esse promittam et spondeam.

INTRODUCTION

TO THE

ORATION FOR P. SULLA.

In the beginning of B.C. 62 L. Sergius Catilina lost his life in a battle in which his troops were defeated by the forces of the Republic (Introd. to the Orations against Catilina). This defeat was followed by the prosecution of some of his partizans under the Lex Plautia de Vi (Dion Cassius, 37. c. 41; Declamatio Pseudo-Sallustii in Ciceronem, c. 2: "quum Legis Plautiae judicia domi faciebatis"). The Lex Plautia was probably enacted in B.C. 89 (Vol. ii. p. 140). Among the various offences punishable by this Lex was the crime of rioting (seditio) and disturbing the public peace. The penalty seems to have been exile. But the provisions of this Lex and of another Lex de Vi which was enacted eleven years later, Lex Lutatia, are not well ascertained. (Orelli, Index Legum, Lex Plotia de Vi; Rein, Das Criminalrecht der Römer, p. 738.) Cicero (Pro Sulla, c. 2) mentions several of those who were prosecuted and convicted under the Lex Plautia. In the year B.C. 62, as it appears (c. 33), L. Manlius Torquatus, son of the Torquatus who was consul in B.C. 65, prosecuted P. Cornelius Sulla under the Lex Plautia de Vi, and P. Cornelius, the son of an Eques C. Cornelius, who had been convicted under this Lex, was the Subscriptor (Pro Sulla, c. 18).

This P. Cornelius Sulla was a kinsman of the Dictator Sulla, as Cicero says (De Off. ii. c. 8). Dion Cassius (36. c. 27) calls him a nephew of the Dictator; and it is generally assumed that he is the P. Cornelius Sulla who is mentioned by Sallust (Cat. c. 17) as one of those who attended Catilina's meeting in the consulship of L. Caesar and C. Figulus, B.C. 64 (P. et Servius Sullae). If this is so, Sallust makes P. Cornelius Sulla as guilty as Lentulus and Cethegus, and yet Cicero affirms that there was no evidence of his being implicated in Catilina's conspiracy. And, as Halm remarks, it is proved by the correct reading of a passage in this oration (c. 2: "Quis nostrum Servium

Sullam, quis Publium, quis M. Laecam, quis C. Cornelium defendendum putavit?"), that the Publius Sulla mentioned by Sallustius was the brother of Servius Sulla, both of them sons of Servius Sulla, the Dictator's brother; and that consequently Cicero's client P. Cornelius Sulla was not the P. Sulla mentioned by Sallustius. Drumann (Geschichte Roms, Cornelii Sullae), who has examined the matter very superficially, assumes Cicero's client to be the son of Servius the brother of the Dictator Sulla.

This P. Cornelius Sulla was one of those who enriched themselves during the Dictator's proscription (B.C. 82) by buying the property of those who were on the bloody lists. In B.C. 66 he was elected consul for B.C. 65 with P. Autronius Paetus, but both of the consules designati were prosecuted under the Lex Calpurnia de Ambitu by L. Manlius Torquatus, the son of Torquatus, a rival candidate; and both of the consules designati were convicted. L. Aurelius Cotta and L. Manlius Torquatus were elected consuls in the place of Sulla and Autronius. (Introduction to the Orations against Catilina.)

Autronius attempted to disturb by violence the proceedings when he was tried for bribery (c. 5), while Sulla quietly submitted to be condemned. After his conviction Autronius joined Catilina in his desperate designs, and was an accomplice in what is called the first conspiracy of Catilina (Sallust, Cat. c. 18; Introd. to the Orations against Catilina). Sallust does not mention Sulla as implicated in the first conspiracy, though the guilt of Sulla is asserted by other authorities (Dion Cassius, 36, c. 27; Suetonius, Caesar, c. 9; Livy, Epit. 101). Sallust's silence about Sulla is not decisive evidence that he was innocent, but it is strange if he was guilty that he should not mention him as one of the conspirators with Catilina and Autronius, when in the same chapter he tells us that Sulla and Autronius were convicted of bribery at their election; and he also speaks of Autronius and Catilina as conspirators. Cicero denies the guilt of Sulla, but he says little of this charge against him, for Hortensius had undertaken to defend Sulla on that matter. Cicero had written to Cn. Pompeius, who was then in Asia, a long letter about what he had done in his consulship, and Torquatus attempted to get some evidence out of this letter that Cicero believed Sulla to have been privy to the first conspiracy (Pro Sulla, c. 24). But no conclusion either one way or the other can be got out of this passage in Cicero's speech, except that he intends to deny Sulla's guilt.

After this time Sulla lived in retirement at Naples, as Cicero tells us. At the close of B.C. 64 the tribune L. Caecilius, Sulla's half-brother, proposed a Lex, which had for its object among other things, to restore to Autronius and Sulla their Senatorial rank and their capacity to hold office (Dion Cassius, 37. c. 25). Halm concludes that Sulla was at

Rome at this time, but this conclusion is certainly not justified by the passage of Dion. The conservative party, as some writers call it, opposed the Lex; or as Dion says, Cicero and those who were of the same opinions, and the Lex was withdrawn, Sulla himself declaring that he did not wish it to pass (c. 22, 23). From another passage in this oration (c. 18) we conclude that Sulla was in Rome in B.C. 63, during Cicero's consulship, for Torquatus charges him with being privy to the design of murdering Cicero on the 28th of October (Introd. to the Orations against Catilina, p. 6). He still, as it seems, made Naples his residence, and the accuser charges him with collecting a body of gladiators in Campania, under the pretext that they were to be exhibited at the games which Faustus Sulla was going to celebrate after Roman fashion in memory of his father the Dictator (c. 19). He also charged Sulla with encouraging dissension between the inhabitants of Pompeii and the colonists settled there with the view of raising a disturbance and getting possession of the town with the aid of the old inhabitants (c. 21). And further, his intimacy with P. Sittius was made a ground of suspicion against him (c. 20). It is said that Sittius was sent on some mission into Spain by Catilina, who reckoned upon him as a safe adherent (Sallust, Cat. c. 21). There is no evidence except what has been here stated, that P. Sulla was implicated in Catilina's second conspiracy.

Q. Hortensius and Cicero defended Sulla against Torquatus the son, who had prosecuted Sulla and Autronius on the charge De Ambitu. Hortensius undertook to defend Sulla against the charge of being privy to the first conspiracy, and Cicero, who knew the history of the second conspiracy, undertook to defend him on that charge. Some modern writers have attempted to discover the reason why Cicero undertook Sulla's defence. His own statement is that he was asked to do it, and saw no reason why he should not, for he believed him to be innocent. Gellius (xii. 12) has preserved a story which, if it is true, helps to explain the matter. Sulla was rich, and Cicero wished to buy a house on the Palatine. As usual he had no ready money, and Sulla lent it to him at the very time when he was under an accusation (qui tum reus erat). Gellius quotes the story as an instance of Cicero's facetiae, but it is a proof of his dishonesty. He borrowed two millions of sestertii from Sulla, but before the purchase was completed, the fact of the loan was known. Cicero however denied that he had borrowed the money: he said that he did not intend to buy the house, and he was willing that it should be taken as a proof of the loan if ever he bought it. He afterwards did buy the house, and when he was charged in the Senate with lying, he laughed outright, and said, "You are stupid fellows, not to know that it shows a man to be a prudent and careful manager, when he intends to buy a thing and says that he will not buy, in order to escape com-

petition in his purchase:" a right Roman answer, and well worthy of Cicero and his times.

Torquatus had attacked Cicero for undertaking the defence of Sulla, and had used very hard language against him, though they had long been on terms of the greatest intimacy. He maintained that the man who had discovered a conspiracy ought not to have undertaken the defence of a man who was implicated in it. Cicero's first object was to remove any prejudice that Torquatus might have raised against him personally, and also as the advocate of Sulla; and this gave him the opportunity, which he never neglected, of saying a great deal about himself (c. 1—12). This was also a part of the defence, as he himself says (c. 1), for if he could convince the Judices that he was doing right in defending Sulla, he might expect that they would be the more disposed to believe the innocence of his client. The second part of his defence is directed to the refutation of the particular charges (c.13—24), and to showing that the previous life of Sulla furnished no reason for supposing that he was likely to be a conspirator against his country. This part of the defence, the establishing of the good character of the accused, comes last, though it was usually placed first, as Cicero says (c. 24, at the end); and we must suppose that he had some good reason for not following the usual practice. Sulla seems to have had sense or cunning enough to keep quiet after his conviction for bribery; and if he wished success to the conspiracy, he was too prudent to be active in it. Accordingly the orator has a fine opportunity of contrasting his conduct with the violence of Catilina, Lentulus, and Autronius. He concludes (c. 30) with repeating what he had said before (c. 5), that during his consulship he found no evidence of Sulla being a conspirator, nothing to raise even a suspicion against him. He says that he would not have defended Sulla, if he had believed that he was a conspirator. He affirms that he did not believe him to be a conspirator, that he found no evidence of any kind against him. We must then either assume that Sulla was innocent, or that Cicero was dishonest; for we cannot allow a man to lie for his client, to affirm that he is innocent when he knows or believes him to be guilty. The utmost limit, in a criminal matter, is that the orator shall make the best of his client's case, without making himself a witness for him.

Sulla was not grateful to the orator; for we may infer that he sided with Clodius, when this turbulent fellow attacked Cicero, and set his brother Quintus' house on fire (Ad Att. iv. 3). When the civil war broke out, Sulla, who liked to be on the winning side, joined Caesar, and he commanded the right wing of Caesar's army in the battle of Pharsalia (Bell. Civ. iii. 89). When the property of the proscribed partizans of Pompeius was put up to sale, Sulla returned to his old tricks, and

bought again. He began this trade when his kinsman Sulla was selling, and six and thirty years after, says Cicero, he was at the same dirty work again (De Off. ii. c. 8). Sulla died in B.C. 45, somewhere out of Rome. Cicero writes to Cassius (Ad Div. xv. 17) to tell him that P. Sulla, the father, was dead; some said he was killed by robbers, others that he died of a fit of indigestion; the people cared not which, for it was certain he was dead and burned. He says that Cassius will bear the loss of such a distinguished man like a philosopher, but he supposes that Caesar will be afraid that his sales of confiscated property will not go on so well. Cassius (Ad Div. xv. 19) answered Cicero in the same strain: he says that Sulla's judgment must be approved, for seeing that philosophers differed, he did not trouble himself about what was good, but he bought up all goods (non quaesiit quid bonum esset, sed omnia bona coemit): an allusion to his indifference to philosophy, and his love of money. He adds, Caesar will not be in want of a purchaser at his auctions when he has seen the son. So the son was like the father, a greedy Roman. Once more, in a letter to Dolabella (Ad Div. ix. 10), Cicero says that the people were very much concerned about Sulla's death until they knew whether it was so or not; but they gave over troubling themselves about the manner of it, when they were assured of the fact. "In other respects," says Cicero, "I bear it like a philosopher: I am only afraid that Caesar's sales will cool." Sulla had joined the man whom Cicero and Cassius hated, and Cicero's abuse of those of the opposite party, or those with whom he had quarrelled, is no great evidence against them. It is only as an indication of Cicero's character that we take any interest in what he says of Sulla. It is not only possible, but it is probable, that Cicero could truly say that Sulla was not in Catilina's conspiracy; at least we may believe that there was no evidence against him. Sulla was, as it seems, a greedy, cunning man, ready to make the most of any opportunity to enrich himself, but too prudent to risk his fortune in a desperate undertaking. If Catilina had succeeded in his designs, Sulla would have bought at his auctions, as he did in his younger days, when the Dictator Sulla offered the property of the proscribed, and as he did again in his old age, when Caesar brought into the market the estates of his enemies.

This oration is in the second part of the new edition of Cicero's orations by Baiter and Halm. It is revised by Halm.

A = Lemmata Schol. Bob. Schol. Cic. ii. p. 359, &c.

T = Codex Tegernseensis, in quo solo ex meliore codicum familia oratio tota servata est.—Nunc in bibliotheca regia Monacensi servatur (Cod. Lat. 18787).

V = Codex Vaticanus num. 1525, olim Palatinus (= Pal. nonus

Gruteri). Fragmentum orationis in eo servatum est (cc. 1—15, to the middle).

E = Codex Erfurtensis, nunc Berolinensis, in quo quum oratio saeculo xvi integra extitisset, nunc in uno folio relicto non superest nisi extrema orationis pars (c. 29, "Accusati sunt uno nomine consulares," to the end) foliis proximis superioribus temporum injuria deperditis.

B = Codex Bruxellensis, 9763, ab I. Roulez collatus.

S = Codex Salisburgensis Aulicus n. 34, nunc Cod. Monacencis Lat. 15734, a me collatus.

R = Codices reliqui praeter nominatim allatos sive deterior codicum familia (Halm).

I have also used for this oration the edition of C. Halm, Leipzig, 1853, with German notes, and an Introduction, which I have found useful.

M. TULLII CICERONIS

PRO

P. SULLA

ORATIO

AD JUDICES.

I. Maxime vellem, judices, ut P. Sulla et antea dignitatis suae splendorem obtinere et post calamitatem acceptam modestiae fructum aliquem potuisset percipere; sed quoniam ita tulit casus infestus, ut amplissimo in honore quum communi ambitionis invidia tum singulari Autronii odio everteretur, et in his pristinae fortunae reliquiis miseris et afflictis tamen haberet quosdam, quorum animos ne supplicio quidem suo satiare posset, quamquam ex hujus incommodis magnam animo molestiam capio, tamen in ceteris malis facile patior oblatum mihi tempus esse, in quo boni viri lenitatem meam misericordiamque, notam quondam omnibus, nunc quasi intermissam, agnoscerent, improbi ac perditi cives redomiti atque victi, praecipi-

1. *Maxime vellem,*] Compare De Divin. c. 13, "vellem, si fieri potuisset, judices."—'obtinere:' ed. Crat.; 'optineret,' T. 'obtineret,' Codd. reliqui (Halm), who has 'obtinere.'—'percipere potuisset:' Halm.

amplissimo in honore] 'et amplissimo honore,' Halm, who connects it with 'everteretur.' Thus Cicero says: "ne per summam injuriam pupillum Junium fortunis patriis conetur evertere" (Verr. ii. 1. c. 51); and Pro Flacco, c. 5, 'fortunis eversos.' Ernesti, according to Orelli, erased the 'in.' But I think it may stand, for as Sylvius says, Sulla was 'consul designatus' when he was convicted of bribery and ruined (everteretur); and 'everteretur' may be used without the ablative, I suppose, as it is in the active voice: "Labefactarat enim vehementer aratores jam superior annus, proximus vero funditus everterat" (Verr. ii. 3. c. 18). Besides this, 'amplissimo in honore' is opposed to 'in his—reliquiis.'—'communi . . . invidia:' "since he was ruined through the envy that attends all persons who aspire to the honours of the state, and through the bad repute in which Autronius particularly was."

redomiti] This is said to be the only example of this word, and to be the MSS. reading. 'Edomiti' is printed in some editions. The proposal to write 're domiti' is properly rejected by Halm and some previous editors. Forcellini has omitted 'redomiti.' There is no more difficulty about 'redomitus' than 'revictus' (Hor., Carm. iv. 4, 24, and the note in Macleane's edition). But I do not consider that the 're' has no meaning in 'redomiti,' though I suppose that 'domiti' might have expressed enough. They were tamed to obedience; tamed and humbled after resistance: that is the meaning of 'redomitus.'—'praecipi-

tante re publica vehementem me fuisse atque fortem, conservata mitem ac misericordem faterentur. Et quoniam L. Torquatus, meus familiaris ac necessarius, judices, existimavit, si nostram in accusatione sua necessitudinem familiaritatemque violasset, aliquid se de auctoritate meae defensionis posse detrahere, cum hujus periculi propulsatione conjungam defensionem officii mei. Quo quidem genere non uterer orationis, judices, hoc tempore, si mea solum interesset; multis enim mihi locis et data facultas est et saepe dabitur de mea laude dicendi: sed ut ille vidit, quantum de mea auctoritate deripuisset, tantum se de hujus praesidiis deminuturum, sic hoc ego sentio, si mei facti rationem vobis constantiamque hujus officii ac defensionis probavero, caussam quoque me P. Sullae probaturum. Ac primum abs te illud, L. Torquate, quaero, cur me a ceteris clarissimis viris ac principibus civitatis in hoc officio atque in defensionis jure secernas. Quid enim est quam ob rem abs te Q. Hortensii factum, clarissimi viri atque ornatissimi, non reprehendatur, reprehendatur meum? Nam si initum est consilium a P. Sulla inflammandae hujus civitatis, exstinguendi imperii, delendae urbis, mihi majorem hae res dolorem quam Q. Hortensio, mihi majus odium afferre debent? meum denique gravius esse judicium, qui adjuvandus in his caussis, qui oppugnandus, qui defendendus, qui deserendus esse videatur? Ita, inquit, tu enim investigasti, tu patefecisti conjurationem. II. Quod quum dicit, non attendit eum qui patefecerit hoc curasse, ut id omnes viderent quod antea fuisset occultum. Quare ista conjuratio, si patefacta per me est, tam patet Hortensio quam mihi. Quem quum videas hoc honore, auctoritate, virtute, consilio praeditum non dubitasse quin innocentem P. Sullam defenderet, quaero cur

tante,' 'falling to its ruin:' see c. 31. Gellius (xix. 9) has some verses of Valerius Aedituus which explain the word:—

"Aut imber caelo candidus praecipitans."

necessitudinem] 'Necessitudinem,' T. V.; 'necessitatem,' R. Either may do. Gellius (xiii. 3) has a remark on these words. After ridiculing the grammarians who say that 'necessitudo' and 'necessitas' are quite different, he adds: "ita nihil rationis dici potest qui necessitudo et necessitas separentur. Itaque in libris veterum vulgo reperias Necessitudinem dici pro eo quod necessum est; sed Necessitas sane pro jure officioque observantiae affinitatisque infrequens est, quamquam qui ob hoc ipsum jus affinitatis familiaritatisve conjuncti sunt, necessarii dicuntur."

hujus periculi] The danger of Sulla (hujus).—'inflammandae hujus urbis,—delendae civitatis,' Halm.—'mihine:' Halm.

gravius esse] 'Harsher, stricter,' Halm; 'verius et majoris momenti et cui potius credendum sit,' Sylvius. The clause 'qui adjuvandus' depends on 'judicium,' as if the notion of the verb 'judicare' were contained in 'judicium.' See Verr. ii. 5. c. 7; and Pro Cluentio, c. 28: "expectatio quidnam sententiae ferrent leves ac nummarii judices."

2. *dubitasse quin—defenderet,*] 'Dubitare' is generally used with an infinitive, when there is a negative with 'dubitare,' and the meaning is that a man resolves, or does not hesitate to do a thing. When the

qui aditus ad caussam Hortensio patuerit, mihi interclusus esse debuerit. Quaero illud etiam, si me qui defendo reprehendendum putas esse, quid tandem de his existimes summis viris et clarissimis civibus, quorum studio et dignitate celebrari hoc judicium, ornari caussam, defendi hujus innocentiam vides? Non enim una ratio est defensionis, ea quae posita est in oratione: omnes qui adsunt, qui laborant, qui salvum volunt, pro sua parte atque auctoritate defendunt. An vero in quibus subselliis haec ornamenta ac lumina rei publicae viderem, in his me apparere nollem, quorum ego illum in locum atque in hanc celsissimam sedem dignitatis atque honoris multis meis ac magnis laboribus et periculis ascendissem? Atque ut intelligas, Torquate, quem accuses, si te id offendit, quod ego, qui in hoc genere quaestionis defenderim neminem, non desim P. Sullae, recordare de ceteris quos adesse huic vides; intelliges et de hoc et de aliis judicium meum et horum par atque unum fuisse. Quis nostrum adfuit Vargunteio? Nemo, ne hic quidem Q. Hortensius, praesertim qui illum solus antea de ambitu defendisset. Non enim jam se ullo officio cum illo conjunctum arbitrabatur, quum ille tanto scelere commisso omnium officiorum societatem diremisset. Quis nostrum Servium Sullam, quis Publium, quis M. Laecam, quis C. Cornelium defendendum putavit? quis his horum adfuit? Nemo. Quid ita? Quia ceteris in caussis etiam nocentes viri boni, si necessarii sunt, deserendos esse non putant, in hoc crimine non solum levitatis culpa est, verum etiam quaedam contagio sceleris, si defendas eum quem obstrictum esse patriae parricidio suspicere. Quid Autronio, nonne sodales, non

subjunctive is used with 'non dubitare' and 'quin,' the writer expresses an opinion formed, or the belief in something. But 'non dubitare' is also sometimes used with the infinitive to express a man's opinion (Cicero, Ad Div. xvi. 21).

studio et dignitate celebrari] "Their participation makes the trial appear to be *numerously attended*, while it is *dignified* by their honourable personal character" (Halm). The word 'celebrare' is always difficult to translate, because it contains two notions. (See Vol. I. Verr. ii. 1. c. 26.)

in quibus subselliis] On the benches where the defendant and his friends sat. The accusator and his friends had their 'subsellia.'—'excelsissimam sedem,' V. Halm.

quorum ego] Lambinus says one MS. has 'quorum ego ope.' Some MSS. have either 'ope,' or 'opera,' or 'auxilio' after 'ego.' But both 'ope' and 'auxilio' are out of place, for Cicero says that he has attained his rank by his own exertions. Halm thinks that the relation of the 'hanc' and the 'illum' is obscure; but he seems to have understood it right. The 'illum in locum' denotes the elevated position of these men, which as a 'novus homo' he could hardly have hoped to attain, though he now is in possession of it as a consularis (hanc sedem).—'si te forte,' V. Halm.

Vargunteio?] See In Cat. i. c. 4, note. The rest whom he mentions were conspirators. Laeca was the man at whose house they met.—'Servium Sullam:' see the Introduction to this oration. These two men were the dictator's nephews.—'parricidio:' Halm remarks that it is the ablative. See Introduction to the Oration Pro Sex. Roscio Am. on the word Parricidium (Vol. II.).

sodales,] See Pro Murena, c. 27. These 'collegae' were the members of some 'col-

collegae sui, non veteres amici, quorum ille copia quondam abundarat, non hi omnes, qui sunt in re publica principes, defuerunt? immo etiam testimonio plerique laeserunt? Statuerant tantum illud esse maleficium, quod non modo [non] occultari per se, sed etiam aperiri illustrarique deberet. III. Quamobrem quid est quod mirere, si cum iisdem me in hac caussa vides adesse, cum quibus in ceteris intelligis afuisse? Nisi vero me unum vis ferum praeter ceteros, me asperum, me inhumanum existimari, me singulari immanitate et crudelitate praeditum. Hanc mihi tu si propter meas res gestas imponis in omni mea vita, Torquate, personam, vehementer erras. Me natura misericordem, patria severum; crudelem nec patria nec natura esse voluit. Denique istam ipsam personam vehementem et acrem, quam mihi tum tempus et res publica imposuit, jam voluntas et natura ipsa detraxit. Illa enim ad breve tempus severitatem postulavit; haec in omni vita misericordiam lenitatemque desiderat. Quare nihil est quod ex tanto comitatu virorum amplissimorum me unum abstrahas. Simplex officium atque una est bonorum omnium caussa. Nihil erit quod admirere posthac, si in ea parte in qua hos animadverteris me videbis. Nulla est enim in re publica mea caussa propria. Tempus agendi fuit magis mihi proprium quam ceteris; doloris vero et timoris et periculi fuit illa caussa communis. Neque enim princeps tunc ad salutem esse potuissem, si alii comites esse noluissent. Quare necesse est, quod mihi consuli praecipuum fuit praeter alios, id jam privato cum ceteris esse commune. Neque ego hoc partiendae invidiae, sed communicandae laudis caussa loquor. Oneris

legium,' one of the names for an artificial person (Vol. I. Index, Person, Artificial). Collegium or Corpus is the name for those associations of persons or corporations which bear a resemblance to that unity which we call a town or a city. The members with respect to one another were called Collegae or Sodales. There were religious associations or corporations, colleges of priests, Collegia templorum; the Collegia of official persons, as Scribae; corporations of trades; and Collegia for social purposes, Sodalitates, Sodalitia, Collegia Sodalitia, or Clubs, which though made for social purposes sometimes had a political character. We do not know to what kind of Collegia Cicero alludes, but probably he alludes to Sodalitia. If, as we may conclude, these clubs helped their members in times of difficulty, it is easy to see what disturbance they might sometimes make. However the case of Autronius was so bad that none of his brother clubsmen would help him. If that is true, his must indeed have been a bad case.

non modo [*non*]] The second [non] is omitted by the MS. which Gruter calls 'Pal. nonus' which was in the library of the Elector Palatine: "sed heu ista famosa bibliotheca fuit! In bello Germanico periit et direpta fuit ac magna pars in Vaticanam translata." This 'Pal. nonus' is Halm's V. (Introduction to this oration.) There is perpetual confusion about the form 'non modo' and 'non modo non.' The 'non' ought not to stand here. Halm has it in his text.

3. *personam*,] See Pro Murena, c. 3, note.—'simplex officium:' duty is simple, plain, alike for all; and the reasons, grounds (caussa) of duty are the same for all honest men.—'princeps:' 'ego tunc princeps,' Halm, following T. V.

mei partem nemini impertio, gloriae bonis omnibus. In Autronium testimonium dixisti, inquit: Sullam defendis. Hoc totum ejusmodi est, judices, ut, si ego sum inconstans ac levis, nec testimonio fidem tribui convenerit, nec defensioni auctoritatem. Sin est in me ratio rei publicae, religio privati officii, studium retinendae voluntatis bonorum, nihil minus accusator debet dicere quam a me defendi Sullam, testimonio laesum esse Autronium. Videor enim jam non solum studium ad defendendas caussas, verum etiam opinionis aliquid et auctoritatis afferre; qua ego et moderate utar, judices, et omnino non uterer, si ille me non coegisset.

IV. Duae conjurationes abs te, Torquate, constituuntur; una, quae Lepido et Volcatio consulibus, patre tuo consule designato, facta esse dicitur; altera, quae me consule. Harum in utraque Sullam dicis fuisse. Patris tui, fortissimi viri atque optimi consulis, scis me consiliis non interfuisse; scis me, quum mihi summus tecum usus esset, tamen illorum expertem temporum et sermonum fuisse; credo, quod nondum penitus in re publica versabar, quod nondum ad propositum mihi finem honoris perveneram, quod me ambitio et forensis labor ab omni illa cogitatione abstrahebat. Quis ergo intererat vestris consiliis? Omnes hi, quos vides huic adesse, et in primis Q. Hortensius; qui quum propter honorem ac dignitatem atque animum eximium in rem publicam, tum propter summam familiaritatem summumque amorem in patrem tuum quum communibus, tum praecipuis patris tui periculis commovebatur. Ergo istius conjurationis crimen defensum ab eo est, qui interfuit, qui cognovit, qui particeps et consilii vestri fuit et timoris. Cujus in hoc crimine propulsando quum esset copiosissima atque ornatissima oratio, tamen non minus inerat auctoritatis in ea quam facultatis. Illius igitur conjurationis, quae facta contra vos, delata ad vos, a

si ego sum] T. V. B. Halm. Orelli has 'si ego sim;' but the subjunctive is wrong here, I think. It is not a supposed case 'si sim,' 'if I were to be;' but 'if I am:' if that fact is certain, then the conclusion is plain. He adds, "but if I am a man who has respect to the state," and so on, then another conclusion is plain. The 'ratio rei publicae' is regard, or respect to the state. The 'opinionis aliquid' is people's good opinion of him. Halm compares with this a passage in the Brutus (c. 29): "In Scauri oratione sapientis hominis et recti gravitas summa et naturalis quaedam inerat auctoritas, non ut causam sed ut testimonium dicere putares, quum pro reo diceret."

4. *Lepido*] In B.C. 66. See the Introduction to the orations against Catilina.

credo,] This is said sarcastically and with some expression of wounded pride, that he a Praetorius was not consulted by Torquatus on this occasion (Halm). His 'ambitio' is his active canvass for the consulship, the great object of his political life.

defensum] The charge against Sulla of being in that conspiracy was answered by Hortensius, who knew all the facts. Cicero will answer, repel (defendere) the charge against Sulla of being engaged in the second conspiracy: "mei consulatus autem tempus et crimen maximae conjurationis a me defendetur."

vobis prolata esse dicitur, ego testis esse non potui; non modo enim nihil comperi, sed vix ad aures meas istius suspicionis fama pervenit. Qui vobis in consilio fuerunt, qui vobiscum illa cognorunt, quibus ipsis periculum tum conflari putabatur, qui Autronio non adfuerunt, qui in illum testimonia gravia dixerunt, hunc defendunt, huic adsunt, in hujus periculo declarant se non crimine conjurationis, ne adessent ceteris, sed hominum maleficio deterritos esse. Mei consulatus autem tempus, et crimen maximae conjurationis a me defendetur. Atque haec inter nos partitio defensionis non est fortuito, judices, nec temere facta; sed, quum videremus eorum criminum nos patronos adhiberi, quorum testes esse possemus, uterque nostrum id sibi suscipiendum putavit, de quo aliquid scire ipse atque existimare potuisset. V. Et, quoniam de criminibus superioris conjurationis Hortensium diligenter audistis, de hac conjuratione quae me consule facta est hoc primum attendite.

Multa quum essem consul de summis rei publicae periculis audivi, multa quaesivi, multa cognovi. Nullus umquam de Sulla nuntius ad me, nullum indicium, nullae litterae pervenerunt, nulla suspicio. Multum haec vox fortasse valere deberet ejus hominis, qui consul insidias rei publicae consilio investigasset, veritate aperuisset, magnitudine animi vindicasset, quum is se nihil audisse de P. Sulla, nihil suspicatum esse diceret. Sed ego nondum utor hac voce ad hunc defendendum: ad purgandum me potius utar, ut mirari Torquatus desinat me qui Autronio non adfuerim Sullam defendere. Quae enim Autronii fuit caussa? quae Sullae est? Ille ambitus judicium tollere ac disturbare primum conflato voluit gladiatorum ac fugitivorum tumultu, deinde, id quod vidimus omnes, lapidatione atque concursu. Sulla, si sibi suus pudor ac dignitas non prodesset, nullum auxilium requisivit. Ille damnatus ita se gerebat, non solum consiliis et sermonibus, verum etiam aspectu atque vultu, ut inimicus esse amplissimis ordinibus, infestus bonis omnibus, hostis patriae videretur. Hic se ita fractum illa calamitate atque afflictum putavit, ut nihil sibi ex pristina dignitate superesse arbitraretur, nisi quod modestia retinuisset. Hac vero in conjuratione quid tam conjunctum quam ille cum Catilina, cum

non modo enim] 'non modo animo,' Halm. —'in consilio:' 'who were your advisers,' 'the men whom you consulted.' 'Cognoscere' is a word which expresses a legal inquiry into facts. (Verr. Act. 1. c. 2, note.)

5. *non adfuerim*] Halm has restored this reading from two of the best MSS. (T. V.) in place of the reading 'afuerim.' Halm observes that the Romans said 'adesse, non adesse, deesse alicui,' but not 'abesse alicui,' for which the Lexicons give no authority except this passage. 'Abesse' signifies no more than simply 'not to be in court,' 'not to appear,' as in c. 3: "si cum iisdem me in hac caussa vides adesse, cum quibus in ceteris intelligis afuisse."

Lentulo? quae tanta societas ullis inter se rerum optimarum, quanta ei cum illis sceleris, libidinis, audaciae? Quod flagitium Lentulus non cum Autronio concepit? quod sine eodem illo Catilina facinus admisit? quum interim Sulla cum eisdem illis non modo noctem solitudinemque non quaereret, sed ne mediocri quidem sermone et congressu conjungeretur. Illum Allobroges, maximarum rerum verissimi indices, illum multorum litterae ac nuntii coarguerunt: Sullam interea nemo insimulavit, nemo nominavit. Postremo ejecto sive emisso jam ex urbe Catilina, ille arma misit, cornua, tubas, falces, signa, legiones: ille relictus intus, exspectatus foris, Lentuli poena compressus, convertit se aliquando ad timorem, numquam ad sanitatem. Hic contra ita quievit ut eo tempore omni Neapoli fuerit, ubi neque homines fuisse putantur hujus affines suspicionis, et locus est ipse non tam ad inflammandos calamitosorum animos quam ad consolandos accommodatus. VI. Propter hanc igitur tantam dissimilitudinem hominum atque caussarum dissimilem me in utroque praebui. Veniebat enim ad me, et saepe veniebat Autronius multis cum lacrimis supplex ut se defenderem; et se

Allobroges,] See In Cat. iii. c. 2; and the Introduction to the orations against Catilina.

falces,] "Pal. nonus *fasces* probabili emendatione, sed forsan minus vera" (Gruter). V. S. and Halm have 'fasces.' Halm in his note remarks, that the mention of 'fasces' is an addition of Cicero's, and he refers to Sallust (Cat. c. 36) who says of Catilina, "cum fascibus atque aliis imperii insignibus in castra ad Manlium contendit." But this passage does not appear to be of any weight here. T. B. and most of the MSS. have 'falces;' Lambinus says that some MSS. have 'faces.' It is difficult to say what the true reading is. Ant. Augustinus suggested that we should read 'signa legionis,' in order to remove the difficulty about Autronius being said to have sent legions. Catilina had at first only 2000 men, and hardly raised his force to two legions (Sallust, Cat. c. 56). One critic suggests that 'legiones' should be omitted. In some editions there is 'ligones' in place of 'legiones,' but we cannot accept that. '*Signa, ligones,* cod. Genevensis' (Halm).

quievit] The Scholiast quoted by Halm has a good note on 'quievit.' It might have been supposed that Sulla retired after his condemnation, because he was conscious of his offence being detected; but the orator makes this an argument to show the man's modesty and his sense of disgrace. Nor must we give any weight to the circumstance of Cicero speaking, as if Sulla after being convicted of bribery could not stay in Rome, for the Lex Calpurnia allowed him to stay. Those who before his time were convicted under the Lex Cornelia were excluded for ten years from being candidates for a magistratus. The Lex Calpurnia (B.C. 67) imposed a pecuniary penalty and perpetual incapacity to hold a magistratus; but persons convicted under it could still stay at Rome. In the consulship of Cicero and C. Antonius a Lex Tullia added ten years' exile to the former penalties for bribery.

Neapoli] This ancient Greek city had a Foedus with Rome at an early period (Liv. viii. 26). After the enactment of the Lex Julia it had the Roman 'civitas.' Halm observes that it had the 'jus exilii,' or was one of the places to which a Roman could retire into 'exilium;' and so the practice of retiring there from Rome continued after it had received the 'civitas.' But Neapolis was a pleasant residence and a luxurious city, and the Romans went there because they liked it. A Roman who loved his ease and pleasure would choose Neapolis in preference to most Italian towns.

affines suspicionis,] See Vol. I. Verr. ii. 2. c. 38.

meum condiscipulum in pueritia, familiarem in adolescentia, collegam in quaestura commemorabat fuisse; multa mea in se, nonnulla etiam sua in me proferebat officia. Quibus ego rebus, judices, ita flectebar animo atque frangebar ut jam ex memoria quas mihi ipsi fecerat insidias deponerem; ut jam immissum esse ab eo C. Cornelium, qui me in aedibus meis, in conspectu uxoris meae ac liberorum meorum trucidaret, obliviscerer. Quae si de uno me cogitasset, qua mollitia sum animi ac lenitate, numquam mehercule illius lacrimis ac precibus restitissem. Sed quum mihi patriae, quum vestrorum periculorum, quum hujus urbis, quum illorum delubrorum atque templorum, quum puerorum infantium, quum matronarum ac virginum veniebat in mentem, et quum illae infestae ac funestae faces, universumque totius urbis incendium, quum tela, quum caedes, quum civium cruor, quum cinis patriae versari ante oculos atque animum memoria refricare coeperat, tum denique ei resistebam, neque solum illi hosti ac parricidae, sed his etiam propinquis illius, Marcellis, patri et filio, quorum alter apud me parentis gravitatem, alter filii suavitatem obtinebat; neque me arbitrabar sine summo scelere posse, quod maleficium in aliis vindicassem, idem in illorum

6. *ut jam ex memoria*] 'ut jam,' T. V. 'ut Spengelius conjecit.' The other reading is 'ut etiam.' But 'ut etiam' is as easily explained as the 'ut jam.' It is hard to say which is best. 'Ut jam ex memoria,' and 'ut jam immissum,' correspond well; and there is force in the repetition. But 'ut etiam ex memoria,' followed by 'ut jam immissum,' is also plain.

C. Cornelium,] One of the men who were sent to assassinate Cicero, as he says (In Cat. i. c. 4). In that passage he names neither of the men. In this and in c. 18 he only mentions C. Cornelius and not Vargunteius; and this he does, as Halm supposes, to increase the unpopularity of the family of C. Cornelius whose son was Torquatus' subscriptor.

aedibus meis,] This is Lambinus' conjecture in place of 'sedibus meis.' The best MS. Pal. Non. (V.) has 'meis sedibus.' 'Aedibus' and 'sedibus' are easily confounded.—'qua mollitia:' 'such is my yielding and gentle temper.' This is a usual Latin form of expression, and elliptical.—'quum mihi—veniebat in mentem:' compare Vol. I. Divin. c. 13; Vol. II. Pro P. Quintio, c. 2; Pro Sex. Rosc. Am. c. 34.

animum memoria refricare] Latin metaphors are the difficult part of the language. First we have to find out what they mean, which may generally be done; and then we have to find an equivalent expression, which very often we cannot find. In other passages of Cicero 'refricare' is applied to rubbing an old wound or sore. Hence it is used metaphorically to signify the bringing something to remembrance which gives pain. All the things which Cicero mentions were brought back to his remembrance by the presence and importunity of Autronius. Halm proposes this as a translation: "to tear open afresh the wounds of my heart which were scarcely healed over." But if this is the best translation that his language can offer, I can only say that it is bad. In another passage Cicero says (Phil. iii. 7): "illam pulcherrimi facti memoriam refricat." The notion is to 'rub' generally, to arouse, to excite by rubbing. In the passage of the Philipp. it is the 'memory' which is rubbed up and roused, or the remembrance rather; a form of expression which we have taken from the Latin. In this passage it is the burnt ashes of his country and many other things which are before the eyes and rouse the mind, the feelings, by aid of the memory.

Marcellis,] These Marcelli, father and son, are supposed to be C. Marcelli. The elder was Praetor of Sicily, B.C. 79, and Cicero praises the equity of his administration (Verr. ii. 2. c. 21). His son was consul B.C. 50.

socio quum scirem defendere. Atque idem ego neque P. Sullam supplicem ferre, neque eosdem Marcellos, pro hujus periculis lacrimantes aspicere, neque hujus M. Messallae hominis necessarii preces sustinere potui. Neque enim est caussa adversata naturae, nec homo, [nec res] misericordiae meae repugnavit. Nusquam nomen, nusquam vestigium fuerat: nullum crimen, nullum indicium, nulla suspicio. Suscepi caussam, Torquate, suscepi, et feci libenter ut me, quem boni constantem, ut spero, semper existimassent, eundem ne improbi quidem crudelem dicerent.

VII. Hic ait se ille, judices, regnum meum ferre non posse. Quod tandem, Torquate, regnum? consulatus, credo, mei, in quo ego imperavi nihil, et contra patribus conscriptis et bonis omnibus parui; quo in magistratu non institutum est a me, judices, regnum sed repressum. An tum in tanto imperio, tanta potestate, non dicis me fuisse regem, nunc privatum regnare dicis? quo tandem nomine? Quod in quos testimonia dixisti, inquit, damnati sunt; quem defendis, sperat se absolutum iri. Hic tibi ego de testimoniis meis hoc respondeo: si falsum dixerim, te in eosdem dixisse; sin verum, non esse hoc regnare, quum verum juratus dicas, probare. De hujus spe tantum dico, nullas a me opes P. Sullam, nullam potentiam, nihil denique praeter fidem defensionis exspectare. Nisi tu, inquit, caussam recepisses, numquam mihi restitisset, sed indicta caussa profugisset. Si jam hoc tibi concedam, Q. Hortensium, tanta gravitate hominem, si hos tales viros non suo stare

Messallae] M. Valerius Messalla Niger was consul in the next year B C. 61. He is supposed to be the man who took pains to collect evidence for the defence of Sext. Roscius Amerinus, whom Cicero defended in B.C. 80 (Pro Sext. Roscio Am. c. 51). Cicero in a letter to Atticus speaks of Messalla (i. 14, § 6) as an excellent consul, the reason for which praise appears from the letter.

[*nec res*]] Halm omits these words in his small edition. They are in V., and Halm retains them in his edition of Orelli's Cicero. By the first part of the sentence Cicero means that the case of Sulla was not opposed to his natural disposition: it was a good case, and he could undertake it without doing any violence to his nature.

7. *An tum*] The reading of T. V. S. Halm in his smaller edition has 'An tu,' which clearly spoils the passage. In his last edition he has 'An tum.'—'in eosdem dixisse:' the common reading is 'in eos,' which has nothing to refer to. The Scholiast seems to have read 'eosdem,' which we can understand: "Aut invidiae meae particeps, inquit, videberis, si quid in eo regaliter feci, quod in sceleratos homines testimonium dixi, quoniam et te in eosdem dixisse manifestum est."—'juratus:' the old reading was 'juratos,' which Lambinus altered to 'juratis,' though he might have seen that 'juratos' was only another form of 'juratus,' which reading is in A. T. V. Graevius could not understand 'probare,' and he thought that some 'sciolus' put it in. He thinks that the sense is complete without 'probare,' but it is not. Cicero says: "but if I told the truth, it is no assumption of regal power, when you tell the truth on oath, to make others believe that you are telling the truth." 'Probare' means to make people accept and believe (Verr. ii. 2. c. 43).

tantum] So much as this; and no more. —'nullam potentiam:' see Pro Murena, c. 28, note on 'vis major.'

non suo stare judicio] Literally "do not

judicio sed meo; si hoc tibi dem, quod credi non potest, nisi ego huic adessem, hos adfuturos non fuisse; uter tandem rex est, isne cui innocentes homines non resistunt, an is qui calamitosos non deserit? At hic etiam, id quod tibi necesse minime fuit, facetus esse voluisti, quum Tarquinium et Numam, et me tertium peregrinum regem esse dixisti. Mitto jam de rege quaerere: illud quaero, peregrinum cur me esse dixeris. Nam si ita sum, non tam est admirandum regem esse me, quoniam, ut tu vis, etiam peregrini reges Romae fuerunt, quam consulem Romae fuisse peregrinum. Hoc dico, inquit, te esse ex municipio. Fateor, et addo etiam, ex eo municipio unde iterum jam salus huic urbi imperioque missa est. Sed scire ex te pervelim, quamobrem qui ex municipiis veniant peregrini tibi esse videantur. Nemo [enim] istuc M. illi Catoni seni, quum plurimos haberet inimicos, nemo Ti. Coruncanio, nemo M'. Curio, nemo huic ipsi nostro C. Mario, quum ei multi inviderent, objecit umquam. Equidem vehementer laetor eum esse me, in quem tu quum cuperes nullam contumeliam jacere potueris, quae

stand on their own judgment, but on mine:" as if they could form no independent judgment of their own.

peregrinum] Numa according to the old story was a Sabine, and Tarquinius Priscus was an Etrurian, a Peregrinus, an alien at Rome. There was not much point in taunting Cicero with being a Peregrinus, which he was not, or he could not have been consul. His native place Arpinum, also the birthplace of C. Marius, whom he speaks of as one of the saviours of Rome, was a town near the Liris. It became a dependency on Rome in B.C. 302, and in B.C. 188 it had the Roman 'civitas,' or as Livy (38. c. 36) says, the "suffragii latio, nam ante sine suffragio habuerant civitatem." But the Roman 'civitas sine suffragio,' which means without the capacity to enjoy the 'honores,' was not a 'civitas;' it was one of the forms of dependence on Rome. As Arpinum was an old Italian town, it was a 'municipium' with reference to Rome both before and after it had the 'civitas,' though its political condition was altered by having the 'civitas.'—'ut tu ais,' T. Halm.

qui—veniant] 'Men from a municipium.' This is the Roman form of expression, when a thing is said generally, when the predication is subordinate to that which is predicated by the principal verb in the sentence. So he says (Pro Plancio, c. 27), "me unum ex iis feci qui ad aquas venissent."

M. illi Catoni] This old Cato the Censor was from Tusculum. He had many a hard fight with his political enemies. Four and forty times, says Pliny (vii. 27), this bold and active man had to defend himself in court, and four and forty times he was acquitted. He was, says Pliny, a most excellent orator, commander, and senator; and he might have added a good farmer, and every thing; a man of more than usual Roman varied talent. Livy (39. c. 40) has a passage about him which is worth reading.

Ti. Coruncanius, the first Plebeian who was elected Pontifex Maximus, is said by Cicero (Pro Plancio, c. 8) to have come from Tusculum. But the emperor Claudius in a speech reported by Tacitus (Ann. xi. 24) says that he was of Camerium, remarking at the same time that the Porcii were of Tusculum. Halm prefers this testimony to Cicero's, of whom he remarks that he is not seldom inexact and careless in historical matters.

M'. Curius Dentatus triumphed over king Pyrrhus. It is not known what his native place was. Cicero could truly say that when Torquatus reproached him with coming from a 'municipium,' it was a reproach that was applicable to the greatest part of the citizens. Rome in its origin had only a few square miles of territory, and the Romanae coloniae occupied only a very small part of Italy. Most of the Roman citizens of Cicero's time were not Romans.

non ad maximam partem civium conveniret. VIII. Sed tamen te a me pro magnis caussis nostrae necessitudinis monendum esse etiam atque etiam puto. Non possunt omnes esse patricii. Si verum quaeris, ne curant quidem: nec se aequales tui propter istam caussam abs te anteiri putant. Ac si tibi nos peregrini videmur, quorum jam et nomen et honos inveteravit et urbi huic et hominum famae ac sermonibus, quam tibi illos competitores tuos peregrinos videri necesse erit, qui jam ex tota Italia delecti tecum de honore et de omni dignitate contendunt? Quorum tu cave quemquam peregrinum appelles, ne peregrinorum suffragiis obruare. Qui si attulerint nervos et industriam, mihi crede, excutient tibi istam verborum jactationem, et te ex somno saepe excitabunt nec patientur se abs te, nisi virtute vincentur, honore superari. Ac si, judices, ceteris patriciis me et vos peregrinos videri oporteret, a Torquato tamen hoc vitium sileretur. Est enim ipse a materno genere municipalis, honestissimi ac nobilissimi generis, sed tamen Asculani. Aut igitur doceat Picentes solos non esse peregrinos, aut gaudeat suo generi me meum ante non ponere. Quare neque me peregrinum posthac dixeris, ne gravius refutere, neque regem, ne derideare. Nisi forte regium tibi videtur ita vivere ut non modo homini nemini, sed ne cupiditati quidem ulli servias; contemnere omnes libidines; non auri, non argenti, non ceterarum rerum indigere; in senatu sentire libere; populi utilitati magis consulere quam voluntati; nemini cedere, multis obsistere. Si hoc putas esse regium, regem me esse confiteor. Sin te potentia mea, si dominatio, si denique aliquod dictum arrogans aut superbum movet, quin tu id potius profers quam verbi invidiam contumeliamque maledicti?

IX. Ego, tantis a me beneficiis in re publica positis, si nullum

8. *necessitudinis*] See c. 1, note on 'necessitudinem.'

patricii.] They were nothing more than others at this time. As Patricii they had no privileges.

inveteravit] He uses this word in the Oratio De Imp. Cn. Pompeii, c. 3: "quae penitus jam insedit ac nimis inveteravit in populi Romani nomine." In c. 29 of this speech 'inveterata' is opposed to 'recens.'

suffragiis obruare.] Torquatus would lose his election by losing the votes of those whom he calls Peregrini, the inhabitants of the Municipia, who had now the 'civitas.' See Pro Murena, c. 23, note on Confusionem.

sileretur] says Halm, is the same as 'sileri debebat.' He compares the following passage (Verr. ii. 5. c. 23): "quo tempore in tanta inopia navium tantaque calamitate provinciae, etiam si precario essent rogandi, tamen ab iis impetraretur."

Asculum.] The Asculum of Picenum, as the word Picentes shows. Pro M. Fonteio, c. 18.—'ante non ponere:' 'non anteponere' (Halm). Picenum had not the 'civitas' when the Social war commenced B.C. 90; and it was the place where the uproar began.

sentire libere;] Halm compares c. 29: 'constantissime sensit.' 'Sentire' here means 'sententiam dicere.'

9. *Ego, tantis a me*] The Scholiast thinks that Cicero imitated the following passage of C. Gracchus (De legibus a se promulgatis): "Si vellem apud vos verba

aliud mihi praemium ab senatu populoque Romano nisi honestum otium postularem, quis non concederet? Sibi haberent honores, sibi imperia, sibi provincias, sibi triumphos, sibi alia praeclarae laudis insignia: mihi liceret ejus urbis quam conservassem conspectu tranquillo animo et quieto frui. Quid, si hoc non postulo; si ille labor meus pristinus, si sollicitudo, si officia, si operae, si vigiliae deserviunt amicis, praesto sunt omnibus; si neque amici in foro requirunt studium meum neque res publica in curia; si me non modo [non] rerum gestarum vacatio, sed neque honoris neque aetatis excusatio vindicat a labore; si voluntas mea, si industria, si domus, si animus, si aures patent omnibus; si mihi ne ad ea quidem, quae pro salute omnium gessi, recordanda et cogitanda quidquam relinquitur temporis; tamen hoc regnum appellabitur, cujus vicarius qui velit esse inveniri nemo potest? Longe abest a me regni suspicio. Si quaeris qui sint Romae regnum occupare conati, ut ne replices annalium memoriam, ex domesticis imaginibus invenies.

facere et a vobis postulare, quum genere summo natus essem et quum fratrem propter vos amisissem, nec quisquam de P. Africani et Ti. Gracchi familia nisi ego et puer restaremus, ut pateremini hoc tempore me quiescere, ne a stirpe genus nostrum interiret et uti aliqua propago generis nostri reliqua esset, haud scio an lubentibus vobis impetrassem." Cicero and all the orators before his time studied Gracchus' speeches (Brutus, c. 33; De Or. i. 34). He says of Gracchus (Brutus, c. 33): "damnum enim illius immaturo interitu res Romanae Latinaeque litterae fecerunt." The imitation in this passage is not very obvious.

It is somewhat out of the way, but still useful to observe that 'haud scio an' in this passage of Gracchus has a negative meaning, 'I do not think that I should have got what I asked.' Meyer remarks (Orat. Rom. Frag. p. 235, 2nd ed.) that 'haud scio an' means 'non credo fore,' and that many writers besides Cicero used it in that sense; and that as the expression is used both affirmatively and negatively, it is not itself either affirmative or negative, but the meaning depends on the whole meaning of the sentence. And so the Germans, he observes, when they say 'Ich weiss nicht ob,' show by the enunciation and the tone that sometimes they affirm, and sometimes deny.

Sibi haberent] Sylvius says, "What if we should read 'sibi haberent alii?'" which is the meaning. They are the 'invidi hominum novorum' (Halm). They might keep their 'honores,' their commands, their provinces—if they would only let me enjoy, &c. So the Romans say 'tibi habere.' "Clamare coeperunt sibi ut haberet hereditatem" (Verr. ii. 2. c. 19, and the note). "Sibi igitur habeant arma" (De Sen. c. 16).

vacatio,] 'Immunitas ob res gestas, vel a rebus gerendis' (Sylvius). The Latin genitive has a peculiar use. The words 'rerum gestarum' give to 'vacatio' the meaning of release from future labour ("rerum vacatio, publici muneris vacatio," Ad Fam. ix. 6) on account of past labour (rerum gestarum). Caesar (B. G. vi. 13): "Druides militiae vacationem omniumque rerum habent immunitatem."—'non modo non,' T. V. B. S. Halm. I do not understand the second 'non.'

recordanda et cogitanda] The vain man was writing a history of his consulship in Greek, which he sent two years later to his friend Atticus (Ad Att. i. 19). He says in this letter that he would send him a Latinus Commentarius if he should finish it. The meaning of Commentarius or Commentarii is Mémoires pour servir. Cicero asked Lucceius (Ad Fam. v. 12) to write the history of his consulship, and he promised to supply him with 'commentarii rerum omnium.' Cicero however wrote a poem in Latin hexameters on his consulship, some verses from which he has quoted in his treatise De Divinatione (In Cat. iii. c. 8, note).

cujus vicarius] "In which no man can be found who would choose to take my place." See Vol. I. Index.

replices—memoriam,] "Without turning over the records of the Annales." He

Res enim gestae, credo, meae me nimis extulerunt ac mihi nescio quos spiritus attulerunt. Quibus de rebus tam claris, tam immortalibus, judices, hoc possum dicere, me, qui ex summis eripuerim periculis urbem hanc et vitam omnium civium, satis adeptum fore, si ex hoc tanto in omnes mortales beneficio nullum in me periculum redundarit. Etenim in qua civitate res tantas gesserim, memini; in qua urbe verser, intelligo. Plenum forum est eorum hominum, quos ego a vestris cervicibus depuli, judices, a meis non removi; nisi vero paucos fuisse arbitramini, qui conari aut sperare possent se tantum imperium posse delere. Horum ego faces eripere de manibus et gladios extorquere potui, sicut feci: voluntates vero consceleratas ac nefarias nec sanare potui nec tollere. Quare non sum nescius quanto periculo vivam in tanta multitudine improborum, quum mihi uni cum omnibus improbis aeternum videam bellum esse susceptum. X. Quod si illis meis praesidiis forte invides, et si ea tibi regia videntur, quod omnes boni omnium generum atque ordinum suam salutem cum mea conjungunt; consolare te, quod omnium mentes improborum mihi uni maxime sunt infensae et adversae; qui me non solum idcirco oderunt quod eorum conatus impios et furorem consceleratum repressi, sed eo etiam magis quod nihil jam se simile me vivo conari posse arbitrantur. At vero quid ego mirer, si quid ab improbis de me improbe dicitur, quum L. Torquatus primum ipse his fundamentis adolescentiae jactis, ea spe

says (De Legg. iii. 14) "si velis replicare memoriam temporum." The 'domesticae imagines' is an allusion to the Manlii. M. Manlius Capitolinus was put to death for treason, for attempting, or being supposed to be attempting to usurp royal power. The story is in Livy, (6. c. 20): "Gentis Manliae decreto cautum est, ne quis deinde M. Manlius vocaretur." See Pro Domo, c. 38.

cervicibus] This word is often used in the plural, in various senses, as Verr. ii. 3. c. 59; 5. c. 42; Terence, Haut. ii. 3. 131:

"Inversa verba, eversas cervices tuas."

aeternum—bellum] Compare In Cat. iv. c. 10, 'aeternum bellum,' and the note.

10. *primum ipse—exaudire*] Halm placed 'ipse' after 'fundamentis' in his small edition, but he has set it right in the larger. Ernesti placed 'ipse' before 'primum.' Halm has 'iis fundamentis,' which he explains by 'talibus, tam bonis.' These two words 'hi' and 'ii' are continually confounded, and it is often very difficult to choose between them. Perhaps many readers may prefer 'iis,' because 'ea spe' follows; but that is my reason for preferring 'his,' which is emphatic, and points to Torquatus who is present, to all his qualities, even his personal qualities. Besides this, all the MSS. have 'his,' except one, which has 'hisce;' and here, as in many other instances, the MSS. reading is that which the sense requires.

Halm is still wrong about 'exaudire.' It seems as if he knew that he was wrong and tries to explain away what he had said (In Cat. i. c. 8; iv. c. 7). He correctly explains 'tantummodo ut,' 'just loud enough;' but Manutius gives the complete meaning: "non ut eos qui circum judicium stabant." Yet Halm says that 'exaudire' means 'ganz, deutlich höre.' No doubt the judices did hear, but they only just heard, as Halm himself has said, and as Manutius truly says, nobody else could hear. This then is not an instance in which 'exaudire' can be translated 'to hear clearly;' it means 'just hear,' and no more. Halm's remark is partly true and partly false: "The word (exaudire) is generally used in such combi-

proposita amplissimae dignitatis, deinde L. Torquati, fortissimi consulis, constantissimi senatoris, semper optimi civis, filius, interdum efferatur immoderatione verborum? qui quum suppressa voce de scelere P. Lentuli, de audacia conjuratorum omnium dixisset, tantummodo ut vos qui ea probatis exaudire possetis, de supplicio, de Lentulo, de carcere, magna et queribunda voce dicebat. In quo primum illud erat absurdum, quod, quum ea quae leviter dixerat vobis probare volebat, eos autem qui circum judicium stabant audire

nations, where a part of the hearers appears to be at a distance (c. 12), or the voice of the speaker appears to be in a low tone, as Cicero (Ad Att. iv. 8, 6): 'dic oro te clarius; vix enim mihi exaudisse videor;' Curtius vii. 31, 20: 'haec quassa adhuc voce, vix proximis exaudientibus, dixerat.' Accordingly the passage in Cat. iv. 7 is easily understood." The passage is "Sed ea quae exaudio dissimulare non possum. Jaciuntur enim voces quae perveniunt ad aures meas." And yet here he translates 'exaudio' by 'deutlich höre.' Cicero did hear: that is certain; but it was not intended that he should hear. In this oration he says "maxima voce ut omnes exaudire possint;" which to adopt Halm's expression 'is easily understood,' but not if we take 'exaudire' to mean by itself what he says. Cicero adds 'omnes,' "ut omnes exaudire possint:" "with all the power of my voice that it may reach all even those furthest off, I say and I always shall say."

de supplicio, de Lentulo,] 'de supplicio [de Lentulo],' Halm, after two of the best MSS., as he says, T. V. The reading of B. is 'Lentuli,' and of the rest 'P. Lentuli.' Halm says that the reading 'P. Lentuli' is faulty for two reasons, first, because of the repetition of the praenomen, the words 'de scelere P. Lentuli' having already occurred; second, because if any thing is added to 'de supplicio,' the rules of rhetoric require some addition also to 'de carcere.'—It is the duty of a commentator to state the opinions of other commentators in cases where there may be a difference of opinion, and readers may judge for themselves. It is not always his duty to answer objections. He may think that they are sometimes not worth answering. I should prefer 'de supplicio P. Lentuli,' if the best MSS. had it. After the man had spoken 'suppressa voce de scelere P. Lentuli, de audacia conjuratorum omnium,' and spoken so low that only the judices could hear, who approved of the conspirators' punishment, he spoke 'de supplicio P. Lentuli,' or 'de supplicio, de Lentulo,' in a loud tone, so loud that every body could hear. He spoke aloud, not of the crime, which was great, but of the punishment, which was severe, and with the view of making Cicero unpopular. As he mentioned crime and Lentulus, when he was speaking only to be heard by the judices, he would say punishment and Lentulus when he wished all to hear him. And why mention Lentulus before all others? Because he was a praetor, and a man of rank, who aspired to sovereignty in Rome (In Cat. iii. 4); and this is the answer to Garatoni's feeble attempt to find a reason for omitting 'P. Lentuli' in the words 'de scelere P. Lentuli.' Garatoni misunderstood the passage altogether, while he was trying to mend it. Among other things he asks, "Quid enim scelus uni Lentulo, audacia reliquis adsignetur? quaenam haec inaudita partitio?" Halm correctly observes that the words 'conjuratorum omnium' show that another name had been mentioned before. Cato, in his speech on the punishment of the conspirators, mentions only Lentulus by name: "Quam quum de P. Lentulo ceterisque statuetis" (Sallust, Cat. c. 52). The reason is plain. Lentulus was the greatest criminal they had caught.

vobis probare] 'To make you believe,' 'to get your assent to what he said.' In 'qui id non probabatis,' 'probare' has the other meaning 'to approve.' Orelli says of 'leviter:' 'leniter Cdd. pauci.' Sylvius and Ursini would read 'leniter.' Gruter objects to Lambinus foisting in 'leniter,' for Catullus (84), he says, teaches that we may say both:

"Audibant eadem haec leniter ac leviter."

On this Graevius says that 'leviter audire' is well said, but 'leviter dicere,' in the sense of 'suppressa voce,' cannot be approved. Halm explains 'leviter' to mean 'slightly,' 'by the way, without making the words emphatic by the strength of the voice or the weight of the expression.' 'Leviter' is the reading of T. V. B. S.

nolebat, non intelligebat ea quae clare diceret ita illos audituros quibus se venditabat, ut vos quoque audiretis qui id non probabatis; deinde alterum jam oratoris vitium, non videre quid quaeque caussa postulet. Nihil est enim tam alienum ab eo, qui alterum conjurationis accuset, quam videri conjuratorum poenam mortemque lugere. Quod quum is tribunus plebis facit, qui unus videtur ex illis ad lugendos conjuratos relictus, nemini mirum est: difficile est enim tacere quum doleas. Te, si quid ejusmodi facis, non modo talem adolescentem, sed in ea caussa in qua te vindicem conjurationis velis esse, vehementer admiror. Sed reprehendo tamen illud maxime, quod isto ingenio et prudentia praeditus caussam rei publicae non tenes, qui arbitrere plebi Romanae res eas non probari, quas me consule omnes boni pro salute communi gesserunt. XI. Ecquem tu horum qui adsunt, quibus te contra ipsorum voluntatem venditabas, aut tam sceleratum statuis fuisse ut haec omnia perire voluerit, aut tam miserum ut et se perire cuperet, et nihil haberet quod salvum esse vellet? An vero clarissimum virum generis vestri ac nominis nemo reprehendit, qui filium suum vita privavit, ut in ceteros firmaret imperium; tu rem publicam repre-

quid quaeque caussa] To know what to say on every occasion, and not to say what ought not to be said, is a great part of the orator's art, as it is also a great part of prudence in all the affairs of life. Torquatus, according to Cicero's representation, had fallen into contradictions, as an orator, and as a man. Halm refers to Cicero, De Or. ii. c. 72, and De Invent. i. c. 50, for some observations on this matter.

is tribunus] The Scholiast suggests that it is L. Calpurnius Bestia, or it may be Q. Metellus Nepos. I do not see that we can with certainty say who is meant. Sallust (c. 17) names Bestia among the chief conspirators, and in another place (c. 43) he says: "L. Bestia, tribunus plebis, contione habita, quereretur de actionibus Ciceronis, bellique gravissumi invidiam optumo consuli imponeret." This happened after Catilina had left Rome and reached the territory of Faesulae. But if Bestia was a conspirator, he could hardly have escaped the fate of those who were tried after Catilina's defeat, Vargunteius and others. When Cicero says 'is tribunus pl. facit,' it seems as if he meant that the man was now tr. pl.

non tenes,] 'You do not comprehend or understand,' as Halm says, who refers to In Cat. iii. 7: "omnia norat, omnium aditus tenebat." Graevius explains it the same way: "ignoras quid postulet rei publicae ratio et utilitas," which Halm translates, I suppose, when he says: "du verstehst nicht worin die eigentliche Volkssache beruht." In the De Legibus (iii. 4) Cicero says: "Senator . . . caussas populi teneto," 'let the Senator defend the interests of the Populus.'

11. *venditabas,*] In c. 10, 'quibus se venditabat.' He says (De Am. c. 23): "quamquam a multis virtus ipsa contemnitur et venditatio quaedam atque ostentatio esse dicitur." The meaning of the word is easily understood. The eagerness of a man who cries his wares for sale, knife-dealer, sponge-seller, or whatever else, furnished the Romans with a happy expression. They said of a man who is very eager to recommend himself, to show himself off, that he was selling himself.

clarissimum] The stern consul T. Manlius Torquatus, who put his son to death in the Latin war (Livy 8. c. 7) because he had fought in a single combat with the enemy against his father's orders. Machiavelli (Discorsi, iii. c. 22) has a good chapter on the consul Manlius Torquatus; and Cato, in his speech on the punishment of the conspirators, mentions the punishment of this brave young Roman (Sallust, Cat. c. 52).

hendis, quae domesticos hostes, ne ab iis ipsa necaretur, necavit? Itaque attende, Torquate, quam ego defugiam auctoritatem consulatus mei. Maxima voce ut omnes exaudire possint dico, semperque dicam: adeste omnes animis qui adestis, quorum ego frequentia magno opere laetor; erigite mentes auresque vestras, et me de invidiosis rebus, ut ille putat, dicentem attendite.—Ego consul, quum exercitus perditorum civium clandestino scelere conflatus crudelissimum et luctuosissimum exitium patriae comparasset, quum ad occasum interitumque rei publicae Catilina in castris, in his autem templis et tectis dux Lentulus esset constitutus, meis consiliis, meis laboribus, mei capitis periculis, sine tumultu, sine delectu, sine armis, sine exercitu, quinque hominibus comprehensis atque confessis, incensione urbem, internicione cives, vastitate Italiam, interitu rem publicam liberavi; ego vitam omnium civium, statum orbis terrae, urbem hanc denique, sedem omnium nostrum, arcem regum ac nationum exterarum, lumen gentium, domicilium imperii quinque hominum amentium ac perditorum poena redemi.—An me existimasti haec injuratum in judicio non esse dicturum,

defugiam] 'Defugere' means 'to run away from,' 'to shrink from.' Cicero says: "Now then mark, Torquatus, how I shrink from maintaining what I did in my consulship." Lambinus says it is the French 'désavouer;' our 'disavow.' Some old editions have 'non defugiam,' which means the same, for if the negative is omitted, Cicero is speaking ironically.

qui adestis,] The reading of T. V. B. S.; 'adestis corpore,' cod. Pithoei; 'adestis corporibus,' some inferior MSS. The MSS. authority is against 'corporibus,' but I am inclined to think that it may be Cicero's genuine text.

sine tumultu,] This means 'tumultu non decreto' (Sylvius). There was no proclamation made though there was reason for it. Cicero says (Phil. v. 12), "Tumultum decerni, justitium edici, saga sumi dico oportere." A Gallic or an Italic war was a 'tumultus' (Cicero, Phil. viii. 1). "Quum igitur bellum hujusmodi impendebat, tumultum esse decernebat Senatus, ut vacationes tollerentur." Comp. In Cat. i. c. 5, "nullo tumultu publice concitato." Cicero seems to mean that there was no arming in the city (sine delectu), for every body knew that the Republic sent an army against Catilina. Sallust (c. 36): "praeterea decernit (senatus) ut consules delectum habeant, Antonius cum exercitu Catilinam persequi maturet, Cicero urbi praesidio sit." But if we had no history except Cicero's, we should often make false conclusions.

quinque hominibus] See In Cat. iii. 6, note.

confessis,] Orelli has the monstrous reading 'confossis,' with the remark 'Cdd. aliq.' I do not see the difficulty about 'confessis.' They did confess in a manner (In Cat. iii. c. 5). They were convicted by evidence, and they were put to death. If Cicero simply says, 'by the seizure and confession of five I rescued the State from ruin,' that was enough. Every body knew that they were strangled. But a few lines further he says 'quinque hominum . . . poena.' There is good MSS. authority for 'confessis,' T. V. B. The men were not 'confossi:' they were strangled. The confession is spoken of by Cicero (In Cat. iii. c. 6; iv. c. 3). Halm thinks that 'confessis' is the same as 'ad confessionem adactis:' I think not.

lumen gentium,] He says (In Cat. iv. c. 6) 'lucem orbis terrarum,' on which Halm has the following note: "Rome is called Lux orbis terrarum as the lamp of the earth, because it was the ruling city from which as from the sun all light proceeded; on the other hand it is called Lumen gentium (Pro Sulla, c. 11) as the illuminated point, compared with which all other Gentes were in the shade." 'Lux'

quae juratus in maxima contione dixissem? XII. Atque etiam illud addam, ne qui forte incipiat improbus subito te amare, Torquate, et aliquid sperare de te, atque ut idem omnes exaudiant clarissima voce dicam.—Harum omnium rerum, quas ego in consulatu pro salute rei publicae suscepi atque gessi, L. ille Torquatus, quum esset meus contubernalis in consulatu atque etiam in praetura fuisset, auctor, adjutor, particeps exstitit, quum princeps, quum auctor, quum signifer esset juventutis; parens ejus, homo amantissimus patriae, maximi animi, summi consilii, singularis constantiae, quum esset aeger, tamen omnibus rebus illis interfuit: nusquam est a me digressus: studio, consilio, auctoritate unus adjuvit plurimum, quum infirmitatem corporis virtute animi superaret.—Videsne ut eripiam te ex improborum subita gratia et reconciliem bonis omnibus? qui te et diligunt et retinent retinebuntque semper; nec, si forte a me desciveris, idcirco te a se et a re publica et a sua dignitate deficere patientur. Sed jam redeo ad caussam, atque hoc vos, judices, testor: mihi de memetipso tam multa dicendi necessitas quaedam imposita est ab illo. Nam si Torquatus Sullam solum accusasset, ego quoque hoc tempore nihil aliud agerem, nisi eum qui accusatus esset defenderem; sed quum ille tota illa oratione in me esset invectus, et quum, ut initio dixi,

and 'lumen' contain the same root 'luc;' and yet they may be used in different ways, but I do not think that the words 'lumen' and 'lux' have a different meaning in these two passages.

contione] Q. Metellus, tr. pl., prevented Cicero when he was retiring from the consulship from making a Contio to the Quirites. Cicero speaks of this again in the oration In Pisonem, c. 3: "Ego quum in contione abiens magistratu dicere a tribuno pl. prohiberer quae constitueram, quumque is mihi tantummodo ut jurarem permitteret, sine ulla dubitatione juravi rem publicam atque hanc urbem mea unius opera esse salvam."

12. *idem omnes*] This refers to the words 'ut omnes exaudire possint' (c. 11). 'Idem' is the nominative plural, a discovery first made by Spengel, as Halm says.—'ille Torquatus:' he is addressing the court and the people in it, and pointing to Torquatus.

contubernalis] The young Romans were used to accompany governors to the provinces and generals on their expeditions, to learn the art of war and get the training which would fit them for the high offices of the state. This was contubernium. Cicero (Pro Cn. Plancio, c. 11): "Hic est enim qui adolescentulus cum A. Torquato profectus in Africam sic ab illo gravissimo et sanctissimo atque omni laude et honore dignissimo viro dilectus est, ut et contuberni necessitudo et adolescentuli modestissimi pudor postulabat;" and Pro Caelio, c. 30. The word, as we collect from this and other passages, was also applied to those who attached themselves to the persons of Roman magistrates during their term of office.

auctor,] Orelli and some other editors have written 'actor.' Orelli thinks that it is not very likely that Cicero could call Torquatus an 'auctor suorum consiliorum,' but if there is a little rhetorical exaggeration in using this word, the reason for it is very clear. It is not so much 'auctor' in the sense of a man who directs, but one who advises, encourages: thus 'hortator, auctor' go together. The word 'princeps' has no technical meaning here. Cicero merely names Torquatus as a distinguished young man, who put himself at the head of the rest.—'sua dignitate,' T. V. B. Halm; 'tua dig.' S.

defensionem meam auctoritate spoliare voluisset, etiamsi dolor meus respondere non cogeret, tamen ipsa caussa hanc a me orationem flagitavisset.

XIII. Allobrogibus nominatum Sullam esse dicis. Quis negat? Sed lege indicium, et vide quemadmodum nominatus sit. L. Cassium dixerunt commemorasse cum ceteris Autronium secum facere. Quaero num Sullam dixerit Cassius? Nusquam. Sese aiunt quaesisse de Cassio quid Sulla sentiret. Videte diligentiam Gallorum; qui vitam hominum naturamque non nossent, ac tantum audissent eos pari calamitate esse, quaesiverunt essentne eadem voluntate? Quid tum Cassius? Si respondisset idem sentire et secum facere Sullam, tamen mihi non videretur in hunc id criminosum esse debere. Quid ita? Quia qui barbaros homines ad bellum impelleret, non debebat minuere illorum suspicionem et purgare eos de quibus illi aliquid suspicari viderentur. Non respondit tamen una facere Sullam. Etenim esset absurdum, quum ceteros sua sponte nominasset, mentionem Sullae facere nullam nisi admonitum et interrogatum; nisi forte veri simile est P. Sullae nomen in memoria Cassio non fuisse. Si nobilitas hominis, si afflicta fortuna, si reliquiae pristinae dignitatis non tam illustres fuissent, tamen Autronii commemoratio memoriam Sullae rettulisset. Etiam, ut arbitror, quum auctoritates principum conjurationis ad incitandos animos Allobrogum colligeret Cassius, et quum sciret exteras nationes maxime nobilitate moveri, non prius Autronium quam Sullam nominavisset. Jam vero illud minime probari potest, Gallos

13. *indicium,*] The evidence, which was taken down in writing. L Cassius Longinus was one of the conspirators (In Cat. iii. c. 6).—'pari calamitate:' both were condemned in the trial de ambitu.

Quia qui] "Because if it was a man's purpose to urge barbarians to war, it was not his business to remove their conjectures and to clear those whom they might seem to consider as inclined to join in the conspiracy." Sallust (Cat. c. 40) says of Umbrenus: "eo praesente (Gabinio) conjurationem (Allobrogibus) aperit, nominat socios, praeterea multos cujusque generis innoxios, quo legatis animus amplior esset."

absurdum,] This word here means 'absurd' in the sense of 'inconsistent,' 'contrary to all reason and probability.' Cicero says 'vox absona et absurda.' How could Cassius, after mentioning the others, have forgotten Sulla, if he was in the conspiracy? If he had mentioned nobody, this argument could not be used. If he mentioned any, why should he omit speaking of one of the most illustrious of the Romans in name at least, and how when he mentioned the name of Autronius, could he have omitted the name of his companion in misfortune? The 'auctoritates' are the conspirators whose names would give confidence to the Galli. We have no one word that will express the meaning. Halm says that we (the Germans) say 'Auctoritäten' in this sense, that is, "the important personalities among the heads of the conspiracy, who were to be guarantees to the ambassadors." But this 'Auctoritäten' is merely one of those foreign words which the Germans import into their language to the great disgust of all people who have any taste.

minime probari] 'Illud verisimile non est' (Sylvius); which is the meaning. The improbability is this. If the Galli, on hearing Autronius' name, asked about Sulla, because Autronius and Sulla were involved in the same disgrace, it is altogether impro-

Autronio nominato putasse propter calamitatis similitudinem sibi aliquid de Sulla esse quaerendum, Cassio, si hic esset in eodem scelere, ne quum appellasset quidem Autronium hujus in mentem venire potuisse. Sed tamen quid respondit de Sulla Cassius? Se nescire certum.—Non purgat, inquit.—Dixi antea; ne si argueret quidem tum denique quum esset interrogatus, id mihi criminosum videretur. Sed ego in indiciis et in quaestionibus non hoc quaerendum arbitror, num purgetur aliquis, sed num arguatur. Etenim quum se negat scire Cassius, utrum sublevat Sullam an satis probat se nescire?—Sublevat apud Gallos.—Quid ita, ne indicent? Quid, si periculum esse putasset ne illi umquam indicarent, de se ipso confessus esset?—Nesciit.—Credo, judices, celatum esse Cassium de Sulla uno; nam de ceteris certe sciebat, etenim domi ejus pleraque conflata esse constabat. Qui negare noluit esse in eo numero Sullam, quo plus spei Gallis daret, dicere autem falsum non ausus est, se nescire dixit. Atqui hoc perspicuum est, quum is, qui de omnibus scierit, de Sulla se scire negarit, eandem vim esse negationis hujus quam si extra conjurationem hunc esse se scire dixisset. Nam cujus scientiam de omnibus constat fuisse, ejus ignoratio de aliquo purgatio debet videri. Sed jam non quaero, purgetne Cassius Sullam: illud mihi tantum satis est, contra Sullam nihil esse in indicio.

XIV. Exclusus hac criminatione Torquatus rursus in me irruit, me accusat. Ait me aliter ac dictum est in tabulas publicas rettu-

bable that Cassius would not have thought of Sulla (hujus) at the very moment when he had uttered the name of Autronius. If the name of Autronius suggested Sulla's name to the Galli, the mention of it must have suggested it to Cassius. The argument is good, but it is not unanswerable.

Sublevat apud Gallos.] The supposed answer of the accusator: 'he excuses him, relieves him (sublevat) from all suspicion of being privy to the conspiracy in the minds of the Galli.' Why? says Cicero; for fear the Galli should inform against Sulla? and this after having committed himself. The accusator says, 'Nesciit,' to which Halm adds 'videlicet' from B. T. V. and S. omit 'videlicet.' He did not know that Sulla was in the conspiracy. Then, says Cicero, we must believe, if we can, that Sulla was the only conspirator whom Cassius did not know to be in the conspiracy.

etenim domi ejus pleraque] Halm has this reading from T. V. B. The other reading is 'et ea domi,' &c. The orator follows up his argument. Cassius did not say that Sulla was not in the conspiracy, for he wished to give the Galli hopes; but a man who knew all the conspirators, and said that he did not know whether Sulla was among them, must be understood to say as much as if he said that he was not.

illud . . . tantum] That fact, such as it is (tantum), is enough.

14. *tabulas*] He charged Cicero with having the testimony written down different from what was given. A most improbable thing in itself, and if Cicero had done it, how was it to be proved that he had? The testimony of the Galli, as it existed in writing, would be considered by all persons as better preserved in the writing than in any single man's recollection. Cicero is not charged with erasing Sulla's name, for it appears from the beginning of c. 13 that Sulla's name was mentioned.—'dictum sit,' A. T. V., Halm.

lisse. O dii immortales!—vobis enim tribuam quae vestra sunt; nec vero possum meo tantum ingenio dare ut tot res, tantas, tam varias, tam repentinas, in illa turbulentissima tempestate rei publicae mea sponte dispexerim—vos profecto animum meum tum conservandae patriae cupiditate incendistis; vos me ab omnibus ceteris cogitationibus ad unam salutem rei publicae convertistis; vos denique in tantis tenebris erroris et inscientiae clarissimum lumen menti meae praetulistis. Vidi ego hoc, judices, nisi recenti memoria senatus auctoritatem hujus indicii monumentis publicis testatus essem, fore ut aliquando non Torquatus, neque Torquati quispiam similis, nam id me multum fefellit, sed ut aliquis patrimonii naufragus, inimicus otii, bonorum hostis, aliter indicata haec esse diceret, quo facilius vento aliquo in optimum quemque excitato posset in malis rei publicae portum suorum malorum aliquem invenire. Itaque introductis in senatum indicibus, constitui senatores qui omnia indicum dicta, interrogata, responsa perscriberent. At quos viros; non solum summa virtute et fide, cujus generis erat in senatu facultas maxima, sed etiam quos sciebam memoria, scientia, consuetudine et celeritate scribendi facillime quae dicerentur per-

auctoritatem hujus indicii] 'If I did not, while the memory of the Senate was fresh, secure evidence of the credibility of the information by putting it on record,' as we say, or 'by entering it on the public records.'

patrimonii naufragus,] Ernesti suspected 'patrimonii,' which Halm has, on the authority of T. V. The other MSS. have 'patrimonio.' I cannot find the expression any where else.

vento aliquo] A word sometimes used to express popular opinion, which is said to be unsteady as the wind. Horace (Carm. iii. 2) speaks of the 'popularis aura.'

At quos viros;] 'And what men:' Cicero is fond of this turn, which belonged to the language of common life. Vol. I. Verr. ii. 2. c. 45; Vol. II. Pro Fonteio, c. 17.

scientia, consuetudine et celeritate] A. V. omit 'consuetudine;' and Halm omits it. Halm says that in reading 'scientia' we must not think of short-hand. He explains 'memoria' to mean that they could completely catch all that was said; and 'scientia' that they could write it down with accuracy in compact form. I hardly understand what he means. The writers would of course take the evidence down just as it was delivered. If the evidence was not taken down at the time, but written down afterwards from memory, it was an imperfect record. It is true that those who had the best memory would be the best men to record the evidence, if they were honest, whether they put it in writing at the time or afterwards. But when Cicero says 'celeritate scribendi facillime quae dicerentur persequi posse,' it is plain that their ready penmanship was exercised in taking down the words as they were spoken. Perhaps they took down the evidence in the ordinary way of writing, with no more abbreviation than was used in common writing, for the evidence thus recorded could be read by every man. But Cicero may mean short-hand writing. Plutarch (Cato, c. 23) speaks of the men whom Cicero employed to take down Cato's speech on the punishment of the conspirators, as having used short-hand (Introduction to the Orations against Catilina). The Romans used many abbreviations in writing; and also writing in cipher was used by C. Julius Caesar (Gellius, xvii. 9). There was a book of the Grammarian Probus 'de occulta litterarum significatione epistolarum C. Caesaris scriptarum.' But this has nothing to do with the present matter. The Romans had a short-hand in general use, as we see from Martial and other writers. In this case, it is at least certain that the evidence was taken down as it was delivered, and taken down by ready writers. They might, as already ob-

sequi posse; C. Cosconium, qui tum erat praetor; M. Messallam, qui tum praeturam petebat; P. Nigidium, App. Claudium. Credo esse neminem qui his hominibus ad vere referendum aut fidem putet aut ingenium defuisse.

XV. Quid deinde, quid feci? Quum scirem ita esse indicium in tabulas publicas relatum ut illae tabulae privata tamen custodia more majorum continerentur, non occultavi, non continui domi, sed describi ab omnibus statim librariis, dividi passim et pervulgari

served, use no more abbreviations than those which were in common use: or if they did write it down in short-hand, it might be transcribed into full-hand.

C. Cosconium,] He was Governor of Hispania Ulterior after his praetorship with the title of Proconsul (In Vatin. c. 5).

M. Messallam,] He was then a candidate for the Praetorship, as Cicero says, a candidate at the time when the evidence was taken against the conspirators, at which time the elections for B.C. 62 were over. If he had been praetor designatus when Cicero was delivering this oration, he would have said so. He was perhaps not praetor till B.C. 61. Halm concludes that this is not the Messalla mentioned in c. 6, who was present when Cicero was delivering this speech, and who was praetor in B.C. 63, as it is stated in modern books, but I do not know the evidence for this. As he was consul in B.C. 61, this makes an interval of one year only between his praetorship and consulship. He purchased the house of Autronius when it was sold (Cic. Ad Att. i. 13). The Messalla mentioned in this chapter was consul in B.C. 53. It does not appear who was his father; and we have no evidence that he was the son of Niger (c. 6), as it is sometimes said. It is not likely that the father was consul B.C. 61, and the son in B.C. 53; for Niger was still a young man in B.C. 80, when Cicero was defending Sex. Roscius: "qui si jam satis aetatis atque roboris haberet, ipse pro Sex. Roscio diceret" (Pro Sex. Roscio, c. 51).

P. Nigidium,] He was Figulus, a learned man and an intimate friend of Cicero. He was an opponent of Caesar, and died in B.C. 44 in exile. There is a letter of Cicero to Nigidius (Ad Div. iv. 13); and a passage in Gellius (xix. 14) about him.

Appius Claudius was the elder brother of Cicero's enemy P. Clodius. He was consul in B.C. 54, and Cicero succeeded him as Proconsul in the government of Cilicia. There are several letters of Cicero to Appius, worth reading if a man wishes to understand Cicero's character (Ad Fam. Lib. iii.).

15. *ita ... ut ... tamen*] 'In the limited sense,' says Halm, for 'quidem . . . sed.' He understands the meaning, but we gain nothing by supposing one thing to be said for another. He refers to other instances of 'ita ... ut' in c. 20, 21. 26. I have made several remarks on 'ita ... ut,' which are often used to affirm a thing on one side, and yet to oppose something to it on the other side.

privata ... custodia] It appears that the acta of the Senatus, except the Senatus consulta, were kept by the consuls during their consulship, a practice that might have led to great abuses. Cicero speaks of this practice again in the Oration Pro Archia, c. 5. It is difficult to suppose that a consul after the term of his office had expired, could have kept such records as the evidence of the conspiracy. Becker (Handbuch, Vol. I. 32, note) says, "if we were to assume that these records were given up to the Aerarium or Tabularium when the magistrate retired from his office, and not before, Cicero's words (Pro Sulla, c. 15) would have no just meaning; for it was during the last days of the year when this publication was made, and consequently, independently of this, the Tabulae would have been immediately withdrawn from 'privata custodia' on the termination of the term of office." There is nothing in this remark. If the records passed from the consul's hands into the Archives, he could not have published them after he had given them up, and perhaps nobody else would have done it.

The 'omnes librarii' were, as Halm supposes, the 'scribae publici.' Near the end of the chapter he speaks of 'scribae mei.' Sometimes the expression 'scriba librarius' occurs. There is a note on Scribae (In Cat. iv. c. 7).—'statim describi,' Halm.

dividi ... imperavi.] Halm compares In

atque edi populo Romano imperavi. Divisi toti Italiae, emisi in omnes provincias; ejus indicii, e quo salus oblata esset omnibus, expertem esse neminem volui. Itaque dico locum in orbe terrarum esse nullum, quo in loco populi Romani nomen sit, quin eodem perscriptum hoc indicium pervenerit. In quo ego tam subito et exiguo et turbido tempore multa divinitus, ita ut dixi, non mea sponte providi; primum, ne qui posset tantum aut de rei publicae aut de alicujus periculo meminisse quantum vellet; deinde, ne cui liceret umquam reprehendere illud indicium aut temere creditum criminari; postremo, ne quid jam a me, ne quid ex meis commentariis quaereretur; ne aut oblivio mea aut memoria nimia videretur, ne denique aut negligentia turpis aut diligentia crudelis putaretur. Sed tamen abs te, Torquate, quaero, quum indicatus tuus esset inimicus, et esset ejus rei frequens senatus et recens memoria testis, tibi, meo familiari et contubernali, prius etiam edituri fuerint indicium scribae mei, si voluisses, quam in codicem rettulissent, quum videres aliter fieri, cur tacuisti, passus es? non mecum aut cum familiari meo questus es? aut, quoniam tam facile inveheris in amicos, iracundius aut vehementius expostulasti? Tu, quum tua vox numquam sit audita; quum, indicio lecto, descripto, divulgato quieveris, tacueris, repente tantam rem ementiare, et in eum locum te deducas ut ante quam me commutati indicii coargueris, te summae negligentiae tuo judicio convictum esse fateare?

XVI. Mihi cujusquam salus tanti fuisset ut meam negligerem? per me ego veritatem patefactam contaminarem aliquo mendacio? quemquam denique ego juvarem, a quo [et] crudeles insidias in rem

Cat. i. c. 11, 'non hunc in vincla duci . . . imperabis?' and remarks that the infinitive after 'imperare' is always a passive infinitive in Cicero.—'emisi:' 'dimisi,' Halm.

ex meis commentariis] 'That no question might be put to him to answer either from memory or from his notes.' The Romans kept Commentarii, note books, journals. They were men of form, and men of business.

indicatus] When Sulla's name was mentioned by the Allobroges, Cicero's scribae would have shown Torquatus, if he had wished it, what was written down before they made a formal entry of it (in codicem rettulissent).—'fieri:' 'referri,' Halm.

ementiare,] "*ementiare*, T.; *ementiaris*, codex Parcensis Torrentii; *enunciare*, B.; *enuntiares*, S.; *enuntiare audeas*, Orelli (deest *audeas* etiam in 4 Oxonn. et in cod. Pithoei)." Halm. 'Enuntiare' would be more polite than 'ementiri;' but if Torquatus really invented such a lie, it was very proper to tell him that he was a liar. —'commutati indicii,' falsifying the evidence; as in Verr. ii. 3. c. 36, "an audacius tabulas publicas commutavit" (Halm). Convictus is often used with a genitive by Cicero.

16. [*et*] *crudeles*] Halm follows T. which has 'a quo etiam crudeles insidias rei publicae factas et me potissimum consule putarem.' 'Constitutas' was inserted from one MS. by Gruter. Graevius says that 'constituere insidias in consulem' is a kind of expression unknown to Latin ears. The reading of T. seems to me very feeble, and the words 'me potissimum consule' fall under one of the heads of blame which Halm urges against the common reading, which are these: "1, falsa est positio VV. *et crud. insidias* pro *crudeles insidias et*;

publicam factas et in me potissimum consulem [constitutas] putarem? Quod si jam essem oblitus severitatis et constantiae meae, tamne amens eram ut, quum litterae posteritatis caussa repertae sint, quae subsidio oblivioni esse possent, ego recentem putarem memoriam cuncti senatus commentario meo posse superari? Fero ego te, Torquate, jamdudum, fero, et nonnumquam animum incitatum ad ulciscendam orationem tuam revoco ipse et reflecto. Permitto aliquid iracundiae tuae, do adolescentiae, cedo amicitiae, tribuo parenti: sed nisi tibi aliquem modum tute constitueris, coges me oblitum nostrae amicitiae habere rationem meae dignitatis. Nemo umquam me tenuissima suspicione perstrinxit quem non perverterim ac perfregerim. Sed mihi hoc credas velim: non iis libentissime soleo respondere quos mihi videor facillime posse superare. Tu, quoniam minime ignoras consuetudinem dicendi meam, noli hac lenitate nova abuti mea; noli aculeos orationis meae, qui reconditi sunt, excussos arbitrari; noli id omnino a me putare esse amissum, si quid est tibi remissum atque concessum. Quum illae valent apud me excusationes injuriae tuae, iratus animus tuus, aetas, amicitia nostra, tum nondum statuo te virium satis habere ut ego tecum luctari et congredi debeam. Quod si esses usu atque aetate robustior, essem idem qui soleo quum sum lacessitus. Nunc tecum sic agam, tulisse ut potius injuriam quam rettulisse gratiam videar. XVII. Neque vero quid mihi irascare intelligere possum. Si, quod eum defendo, quem tu accusas, cur tibi ego non succenseo qui accuses eum quem ego defendo? Inimicum, inquis, accuso

2, insolens est locutio *insidias in rem publicam facere*, etiam insolentior altera *insidias constituere*; 3, vitiosa partitio *et* ... *et potissimum* pro *cum* ... *tum*; 4, arrogans denique sententia, si Cicero insidiis sibi structis plus tribuisset quam iis quae rei p. factae erant." The reading of S. is that in the text, except that S. has not 'constitutas.' It is said to have been in the Erfurt; but we do not know what was the reading of the whole passage in the Erfurt. 'Facere' is very generally used with an accusative and dative, but I do not see why it may not be used as it is here. The text may not be Cicero's, but I do not believe that Halm's is.

posteritatis] See Vol. II. Pro C. Rabirio, c. 10.—'subsidio oblivioni,' a help against being forgotten, as the context shows. Halm compares Caesar, B. G. ii. 20: "his difficultatibus duae res erant subsidio."

perverterim] The Erfurt has 'praeverterim ac perfregerim.' T. has 'perverterim aut praefregerim;' and there are other varieties. Some MSS. have 'perculerim.'

excussos arbitrari;] A metaphor taken from the porcupine (hystrix), as Sylvius supposes, who refers to Pliny's (viii. c. 35) description of the porcupine; or from the sting of the bee, as to which Halm cites Pliny (xi. c. 18) and Q. Curtius, iv. 54.

rettulisse gratiam] Halm says that his MSS. have 'retulisse.' Lambinus thought that 'gratiam' was the wrong word here and superfluous, because the word 'injuriam' can easily be supplied. But 'gratiam referre' is used to signify 'returning an obligation,' when the meaning is to repay a wrong by some thing that the wrong doer will not like.

17. *ego ... qui accuses*] 'for prosecuting him.' T. B. and Halm has 'ego ... quod accusas,' 'because you prosecute him,'—'et amicum:' I learn from Halm that this form of quick reply is ὑποφορά or 'subjectio,' in which he says that 'at' is gene-

meum. Et amicum ego defendo meum.—Non debes tu quemquam in conjurationis quaestione defendere. Immo nemo magis eum de quo nihil est umquam suspicatus quam is qui de aliis multa cogitavit.—Cur dixisti testimonium in alios? Quia coactus.—Cur damnati sunt? Quia creditum est.—Regnum est dicere in quem velis et defendere quem velis. Immo servitus est non dicere in quem velis, nec defendere quem velis.—Ac si considerare coeperis, utrum magis mihi hoc necesse fuerit facere an istud tibi, intelliges honestius te inimicitiarum modum statuere potuisse quam me humanitatis. At vero quum honos agebatur familiae vestrae amplissimus, hoc est consulatus parentis tui, sapientissimus vir familiarissimis suis non succensuit pater tuus, quum Sullam et defenderent et laudarent. Intelligebat [enim] hanc nobis a majoribus esse traditam disciplinam, ut nullius amicitia ad pericula propulsanda impediremur. At erat huic judicio longe dissimilis illa contentio: tum afflicto P. Sulla consulatus vobis pariebatur, sicuti partus est; honoris erat certamen; ereptum repetere vos clamitabatis ut victi in campo in foro vinceretis; tum qui contra vos pro hujus salute pugnabant, amicissimi vestri, quibus non irascebamini, consulatum vobis eripiebant, honori vestro repugnabant, et tamen id inviolata vestra amicitia, integro officio, vetere exemplo atque instituto optimi cujusque faciebant. XVIII. Ego vero quibus ornamentis adversor tuis, aut cui dignitati vestrae repugno? Quid est quod jam ab hoc expetas? Honor ad patrem, insignia honoris ad te delata sunt. Tu ornatus exuviis hujus venis ad eum lacerandum quem interemisti: ego jacentem et spoliatum defendo et protego. Atque hic tu et reprehendis me quia defendam, et irasceris. Ego autem non modo tibi non irascor, sed ne reprehendo quidem factum tuum. Te enim existimo tibi statuisse quid faciendum putares, et satis idoneum officii judicem posuisse.

rally used. However 'et' is used here for the sake of producing a perfect balance; κατ' ἰσότητα, as the Greek rhetoricians say.—Without consulting these triflers we see that 'and' is the proper form, for it completes the expression; it is not merely an answer: 'I,' you say, 'am prosecuting my enemy.' 'And I am defending my friend.' —'nec defendere:' 'et non defendere,' Halm.—'coactus sum,' B. Halm.

At vero] 'An vero,' Halm, who omits 'non' before 'succensuit,' and of course puts a note of interrogation at the end of the sentence.—'At erat,' Halm's correction.

18. *Honor . . . insignia*] The consulship was taken from Sulla, and Torquatus got it. His son was honoured by his father's elevation; he had the 'insignia honoris' by his father being elected consul, and becoming 'consularis.'

posuisse.] Halm has 'officii tui judicem esse potuisse.' In place of 'esse potuisse' T. has 'potuisse.' Lambinus, who observes that the 'libri vulgati' have 'posuisse' incorrectly, altered it into 'posui te.' Gulielmus conjectured 'judicem fuisse.' It is possible that the text may be right, and may mean what Manutius says 'that he considered or made his father a competent judge of the duty that he had to do.'

At accusat C. Cornelii filius, idemque valere debet ac si pater indicaret. O patrem Cornelium sapientem, qui quod praemii solet esse in indicio reliquerit; quod turpitudinis in confessione, id per accusationem filii susceperit. Sed quid est tandem quod indicat per istum puerum Cornelius? Si est caussa mihi ignota, cum Hortensio communicata, respondeat Hortensius. Sin, ut ais, illum conatum Autronii et Catilinae, quum in campo, consularibus comitiis quae a me habita sunt, caedem facere voluerunt, Autronium tum in campo vidimus; et quid dixi, vidisse nos? Ego vidi—vos enim tum, judices, nihil laborabatis neque suspicabamini; ego tectus praesidio firmo amicorum Catilinae tum et Autronii copias et conatum repressi.—Num quis est igitur qui tum dicat in campum aspirasse Sullam? Atqui si tum se cum Catilina societate sceleris conjunxerat, cur ab eo discedebat? cur cum Autronio non erat? cur in pari caussa non paria signa criminis reperiuntur? Sed quoniam Cornelius ipse etiam nunc de indicando dubitat, ut dicitis, informat adhuc adumbratum indicium filii, quid tandem de

C. Cornelius] The son was Torquatus' 'subscriptor.' The father, a Roman eques, was implicated in the conspiracy (Sallust, Cat. c. 28). He and Vargunteius undertook to murder Cicero. The words 'praemii solet esse' are explained by the passage in In Cat. iv. c. 3, note on 'praemia.' Cornelius exposed his own disgrace, he admitted his own villany by making his son his instrument in attacking Sulla. Cicero calls young Cornelius 'puer,' but we cannot tell what his age was. He was no doubt a young man. This 'puer' is here a term of contempt. Cicero called Octavianus a 'puer' (Ad Fam. xii. 25, and Phil. iv. 1), where he is not speaking contemptuously, as Tischer, quoted by Halm, observes.

Si est caussa] "Si vetera, mihi ignota . . . respondit Hortensius," Halm. T. has 'si vetera;' B. has 'sin ea.' The rest have 'si est causa.' T. has 'respondit;' S. and 4 Oxonn. have 'respondet.' It is doubtful what B. has.

illum conatum] T. has 'conatum,' which Halm has taken, and I have no doubt that it is the true reading. The word 'conatum' depends on 'indicat.' The other reading is 'comitatum.'—'et quid:' 'sed quid,' Halm.

aspirasse] Cicero often uses this word. It is not a metaphor which we can admire. He says Pro P. Quintio, c. 29, 'Dixi Romae domum fuisse quo iste ne aspirarit quidem;' 'which he never made even an effort to reach.' See also Verr. ii. 2. c. 31, note.

cur ab eo, &c.] The proof 'ex consequentibus,' as Halm says (Auct. ad Herenn. ii. c. 5). Halm has this remark: "We see how weak the defence is, which rests merely on two assertions: 1, I did not see Sulla at that time in the Campus Martius; 2, he was never seen together with Catilina in the time immediately following." But the weakness is in the critic. The guilt of Sulla must be proved by positive evidence; and so far as this oration tells us, there was none. There was affirmation without evidence, to which it is never necessary to give an answer; and there might be facts, on which a certain amount of presumption or suspicion might be founded, but not presumption enough to be taken as evidence in a criminal trial; and as for what is called suspicion, that is not a matter that belongs to legal inquiry any further than as the means of inducing search. Suspicion is extrajudicial entirely; and a juryman who allows suspicion to affect his verdict, or a judge who says that he has certain suspicions, is, to use plain language, as unfit for his function as a fool. But Cicero wished to remove even suspicion from the minds of the judices. He says he did not see Sulla in the Campus, and we assume that he means that nobody else saw him. Nor was Sulla afterwards seen in Catilina's company. The conclusion is that the prosecutor could not deny either of these assertions.

adhuc] Ernesti. Halm has 'ad hoc . . . filium.' The thing which is 'adumbratum' is an outline determined by a

illa nocte dicit, quum inter falcarios ad M. Laecam, nocte ea quae consecuta est posterum diem Nonarum Novemb. me consule, Catilinae denuntiatione convenit? quae nox omnium temporum conjurationis acerrima fuit atque acerbissima. Tum Catilinae dies exeundi, tum ceteris manendi conditio, tum descriptio totam per urbem caedis atque incendiorum constituta est: tum tuus pater, Corneli, id quod tandem aliquando confitetur, illam sibi officiosam provinciam depoposcit ut quum prima luce consulem salutatum veniret, intromissus meo more et jure amicitiae me in meo lectulo trucidaret. XIX. Hoc tempore, quum arderet acerrime conjuratio, quum Catilina egrederetur ad exercitum, Lentulus in urbe relinqueretur, Cassius incendiis, Cethegus caedi praeponeretur, Autronio ut occuparet Etruriam praescriberetur, quum omnia ordinarentur, instituerentur, pararentur; ubi fuit Sulla, Corneli? Num Romae? Immo longe afuit. Num in iis regionibus quo se Catilina inferebat? Multo etiam longius. Num in agro Camerti, Piceno, Gallico, quas oras maxime quasi morbus quidam illius furoris pervaserat? Nihil vero minus. Fuit enim, ut jam ante dixi, Neapoli; fuit in ea parte Italiae quae maxime ista suspicione caruit. Quid ergo indicat aut quid affert aut ipse Cornelius, aut vos qui ab eo haec mandata defertis?—Gladiatores emptos esse Fausti simulatione ad caedem ac tumultum.—Ita prorsus; inter-

shadow, σκιαγραφία. It is the form of the whole, but not the form of the parts. It is opposed to 'expressus.' 'Informare' also means to give form, but also to add something to mere outline, and so produce a more complete resemblance.

falcarios] In Cat. i. c. 4.—'posterum diem:' In Cat. i. c. 1.

19. *Gallico,*] In Cat. ii. c. 3. The 'ager Camers' is the country about Camerinum in Umbria. In the oration against Catilina (ii. c. 3) Cicero mentions Apulia, Etruria, the ager Picenus and Gallicus as the field of the conspirators' operations.

ista suspicione] But Cicero says (Pro Sestio, c. 4) that a design on Capua was formed by the conspirators, and emissaries of Catilina had communication with the bodies of gladiators there (Halm).—'qui haec ab illo mandata defertis,' Halm, following the reading of T. The rest have 'ab eo haec.' The copyists often altered the pronouns, sometimes doing much mischief. There are cases, and this is one, where we may conclude, so far as we are able to judge, that Cicero may have written either 'haec ab illo,' or 'ab eo haec.' I do not see why 'illo' should be used here.

Fausti] The son of Sulla the Dictator. Here begins what is called an 'altercatio,' consisting of the prosecutor's objections and Cicero's answers. There is no difficulty in seeing which is Cicero's part. The charge is that Sulla bought gladiators under pretence of buying them for Faustus, but really for another purpose; and this charge is made in form as coming indirect from Cornelius.

Ita prorsus;] 'Exactly so,' says Cicero, 'gladiators were bought under a false pretext, and yet we know that a show of gladiatores was due to the people under the father's testament.' The word 'interpositus,' 'interposed,' 'placed between,' seems to contain the notion of a false reason being placed between the purchase and the real end.

The gladiatores were due to the 'populus.' It was a duty imposed by the testament. We find the same form of expression about public roads in the Liber Coloniarum (ed. Lachmann, p. 240):—

"Camerinum, muro ducta . iter populo non debetur.
Matilica oppidum . iter populo debetur ped. LXXX."

positi sunt gladiatores, quos testamento patris deberi videmus.—Arrepta est familia, quae si esset praetermissa, posset alia familia Fausti munus praebere.—Utinam quidem haec ipsa non modo iniquorum invidiae, sed aequorum exspectationi satisfacere posset.—Properatum vehementer est, quum longe tempus muneris abesset.—Quasi vero tempus dandi muneris non valde appropinquaret.—Nec opinante Fausto, quum is neque sciret neque vellet, familia est comparata.—At litterae sunt Fausti per quas ille precibus a P. Sulla petit ut emat gladiatores, et ut hos ipsos emat; neque solum ad Sullam missae, sed ad L. Caesarem, Q. Pompeium, C. Memmium, quorum de sententia tota res gesta est.—At praefuit familiae

The Romans had more whims in their wills than we have. A testator could impose certain duties on his heres or heredes, such as the erection of a monument, the exhibition of gladiators, and the giving of a public entertainment. He could effect most of such objects by the form of a condition. Livy (28, c. 21) describes the games which Scipio exhibited in Spain at Carthago Nova: "Scipio Carthaginem ad vota solvenda munusque gladiatorium, quod mortis caussa patris patruique paraverat, edendum rediit."

Arrepta est] Another charge: a whole familia of gladiators was eagerly bought up by Sulla. If he had let this opportunity pass, another might have served for Faustus' purpose. The eagerness of Sulla in the purchase is made a presumption of his guilt. The prosecution afterwards says, 'Properatum vehementer est,' which is only a further explanation of 'arrepta est familia.'

Cicero replies, 'Utinam quidem haec ipsa,' the meaning of which is not quite plain. 'Haec ipsa' is the 'familia' which Sulla did buy. Faustus was an object of envy for his wealth which his father got by foul means. As Faustus was rich, the people would expect a grand show, and Cicero means to say that the number of gladiators purchased was not large. No exhibition could satisfy the envy of those who did not like Faustus: Cicero says that he only hoped it might satisfy the expectations of reasonable people. This is a way of saying that the number of gladiators bought by Sulla furnished no presumption that he had any bad design. These gladiators were not exhibited until B.C. 60 (Dion 37, c. 51), when Sulla also feasted the people in great style, and opened the baths gratis to them, and gave every man an allowance of oil.

But there is a difficulty here, which I have not seen a remark on. Cicero says he wishes this very body of gladiators had satisfied expectation (satisfacere posset). He speaks of the exhibition as past. But it is concluded that this oration was delivered in B.C. 62. The ground of this conclusion of Manutius is the words in c. 30, "cujus nuper ferrum rettuderim flammamque restinxerim;" but the conclusion from 'nuper' cannot be admitted. A more probable conclusion is derived from the words in c. 33, "quae per hos menses in homines audacissimos facta sunt."

litterae] Faustus was with Pompeius in Asia in B.C. 63. He distinguished himself at the storming of Jerusalem by being the first man to scale the walls of the temple, for which he was well rewarded. Sulla, like his father, had an eye to profit. He was greedy of money, and he squandered it too.

L. Caesarem,] He was one of the consuls of the year B.C. 64 (In Cat. iv. c. 6). This Pompeius Rufus was a grandson of the dictator Sulla, a son of Sulla's daughter Cornelia. C. Memmius was the husband of Fausta, who was the sister of Faustus. Memmius put her away, and she married T. Annius Milo, and committed adultery with the historian C. Sallustius, as it is said.

praefuit familiae] He looked after the gladiators and their training. Halm omits Cornelius, as Lambinus suggests, though it is in the MSS. Sulla is meant. Orelli would not erase Cornelius, and he thinks that it is absurd to suppose that Sulla is meant. Cornelius he says, is neither Sulla, nor C. Cornelius, the Roman eques, one of Torquatus' witnesses, but some freedman of P. Sulla, named in the evidence. He adds: "Probabiliter post v. *Cornelius* excidit *P. L.* Publii libertus, ut saepe notis accidit."

[Cornelius].—Jam si in comparanda familia suspicio est nulla, quod praefuit nihil ad rem pertinet. Sed tamen munere servili obtulit se ad ferramenta prospicienda. Praefuit vero numquam; eaque res per Bellum, Fausti libertum, omni tempore administrata est.

XX. At enim Sittius est ab hoc in ulteriorem Hispaniam missus ut eam provinciam perturbaret.—Primum Sittius, judices, L. Julio C. Figulo consulibus profectus est aliquanto ante furorem Catilinae et suspicionem hujus conjurationis; deinde est profectus non tum primum, sed quum in iisdem locis aliquanto ante eadem de caussa aliquot annos fuisset. Ac profectus est non modo ob caussam, sed etiam ob necessariam caussam, magna ratione cum Mauritaniae rege contracta. Tum autem, illo profecto, Sulla procurante ejus rem et gerente, plurimis et pulcherrimis P. Sittii praediis venditis aes alienum ejusdem dissolutum [est], ut quae caussa ceteros ad facinus impulit, cupiditas retinendae possessionis, ea Sittio non fuerit, praediis deminutis. Jam vero illud quam incredibile, quam absurdum, qui Romae caedem facere, qui hanc urbem inflammare vellet, eum familiarissimum suum dimittere ab se et amandare in ultimas terras; utrum quo facilius Romae ea quae conabatur efficeret, si in Hispania turbatum esset?—at haec ipsa per se sine ulla

quod praefuit] 'quis praefuerit,' T., Halm.

Sed tamen] Orelli writes 'sed tantum,' observing that 'tamen' and 'tantum' are often confounded. This is true; but he has misconceived the whole passage, and his emendation is worth nothing. Halm writes 'in munere servili;' and 'in' seems to be wanted. He conjectures that there has been a transposition, and that the true order of the words is this: "nihil ad rem pertinet; praefuit vero numquam. Sed tamen in munere servili . . . prospicienda." I think that all may be right, and 'sed tamen . . . prospicienda' is part of Cicero's answer. Why could not Sulla look after arms (ferramenta)? A gentleman like Sulla would not undertake the training of those fellows, but it would be just the thing for him to see that their weapons were of proper quality. Cethegus professed to be very particular about having good arms: "se semper bonorum ferramentorum studiosum fuisse" (In Cat. iii. c. 5).—'Bellum:' 'Balbum,' Halm in his smaller edition; but 'Bellum' in the other.

20. *Sittius*] See the Introduction. Catilina (Sallustius, Cat. c. 21) speaks of his friend Sittius being in Mauritania. Appian (B. C. iv. 54) says that he left Rome without waiting for the issue of some trial in which he was prosecuted, and collecting a force in Italy and Spain, passed over into Africa, and helped first one and then another of the native kings who were quarrelling among themselves. Cicero speaks of a 'magna ratione cum Mauritaniae rege contracta,' which means some pecuniary matter. We may guess what it was. Sittius was to serve the barbarian for money, and he got his men in Italy and Spain, desperate adventurers, such as may always be had.

procurante] Sulla was his procurator (Vol. I., Pro P. Quintio, c. 7), and his 'negotiorum gestor' (Vol. II., Verr. ii. 2, c. 24).

aes . . . dissolutum] Vol. I., Verr. ii. 3, c. 77, note on 'dissolvisti;' and In Cat. ii. 8, note on 'dissolvi.'—'cupiditas retinendae:' see In Cat. ii. c. 8.

haec ipsa] What was going on at Rome. It is probable, as Halm remarks, that there was combination between the conspirators at Rome and men in the provinces. He refers to In Cat. iv. 3, "multas jam provincias occupavit." There Cicero is exaggerating to serve his purpose. Here he is talking in another sense to serve his present purpose. We know no more than Sallust

conjunctione agebantur—an in tantis rebus, tam novis consiliis, tam periculosis, tam turbulentis, hominem amantissimum sui, familiarissimum, conjunctissimum officiis, usu, consuetudine, dimittendum esse arbitrabatur? Veri simile non est, ut, quem in secundis rebus, quem in otio semper secum habuisset, hunc in adversis et in eo tumultu, quem ipse comparabat, ab se dimitteret. Ipse autem Sittius, non enim mihi deserenda est caussa amici veteris atque hospitis, is homo est aut ea familia ac disciplina ut hoc credi possit, eum bellum rei publicae facere voluisse? ut, cujus pater, quum ceteri deficerent finitimi ac vicini, singulari exstiterit in rem publicam nostram officio et fide, is sibi nefarium bellum contra patriam suscipiendum putaret? cujus aes alienum videmus, judices, non libidine, sed negotii gerendi studio esse contractum; qui ita Romae debuit ut in provinciis et in regnis maximae ei pecuniae deberentur, quas quum peteret, non commisit ut sui procuratores quidquam oneris absente se sustinerent; venire omnes suas possessiones, et

and Cicero tell us, and we must be content with that. Catilina would be very ready to exaggerate his means in order to encourage his partizans, and if he said that Sittius was in Spain or in Mauritania on his business, that does not prove the fact; nor does Sallust (Cat. 21) affirm it to be true.

arbitrabatur?] T. B. have 'arbitrabatur,' which Halm prints. He makes 'At haec ipsa ... agebantur' a distinct sentence. It looks like a parenthetical sentence. The other reading is 'arbitraretur.'

Veri simile non est,] Lambinus erases these words with a curse on the half-learned who spoil what they do not understand. These words, he says, come from their workshop, and he cites two like instances: "verisimile non est ut . . . anteponeret" (Verr. ii. 4, c. 6, Vol. I.); and "non est verisimile ut ... adamarit." Halm explains the 'ut' after 'veri simile non est' thus: he says that the thought 'vix fieri potuit ut' lies at the bottom of the form of speech.

bellum rei publicae] 'bellum populo Romano,' Halm.

ceteri deficerent] In the Social war. He was from Nuceria in Campania.

negotii gerendi studio] Cicero says that he borrowed money to carry on his African speculations, or to make some contract with the Mauritanian king. He says, or he leaves us to infer, that it was simply a mercantile speculation. But if Sittius raised men in Spain and Italy, he would want money for that purpose. Cicero's history, as I have often observed, can never be trusted; and we cannot trust him here, where he wishes to make Sulla's friend Sittius a merchant adventurer. The short story of Appian, who often laid hold of plain facts, tells us that he carried men to Mauritania, and helped the African princes against one another. This fact and his subsequent career make it probable that he was like the commanders of the Free Companies, who sold their services to the Italian towns or princes in the troubled times of modern Italian history, where we find an English adventurer, Hawkwood, playing a great part as a Condottiere. The subsequent history of Sittius justifies all that we may conjecture about him from the evidence that has been mentioned. When Caesar landed in Africa in B.C. 46, Sittius had a fleet and an army with which he joined Caesar, to whom he was very useful in his African war. Caesar rewarded him with a part of Numidia, a part of Massinissa's kingdom, where Sittius settled with his men, and became an African prince. Sittius afterwards lost his life through the treachery of Arabio, Massinissa's son. Cicero speaks of Sittius' death in a letter to Atticus (xv. 17): "Arabioni de Sittio nihil irascor." This was the way he spoke of his old friend, the merchant adventurer, the honourable man.

quidquam oneris] A procurator represented his absent principal in all respects, and was personally responsible (Pro P. Quintio, c. 7). The form 'ita Romae debuit ut' has been explained several times:

patrimonio se ornatissimo spoliari maluit quam ullam moram cuiquam fieri creditorum suorum. A quo quidem genere, judices, ego numquam timui, quum in illa rei publicae tempestate versarer. Illud erat genus hominum horribile et pertimescendum, qui tanto amore suas possessiones amplexi tenebant ut ab his membra divelli citius ac distrahi posse diceres. Sittius numquam sibi cognationem cum praediis esse existimavit suis. Itaque se non modo ex suspicione tanti sceleris, verum etiam ex omni hominum sermone, non armis, sed patrimonio suo vindicavit.

XXI. Jam vero quod objicit Pompeianos esse a Sulla impulsos,

'though he had debts in Rome, he had very large sums due to him in the provinces and by the princes of Africa.'

genus . . . pertimescendum,] Compare In Cat. ii. 8.—'ab his,' the Codd.; 'ab iis,' Halm.

cognationem] Sylvius compares the following passage (Pro Balbo, c. 25): "simul illud nesciebat, praediorum nullam esse gentem; emptionibus ea solere saepe ad alienos homines, saepe ad infimos, non legibus, tanquam tutelas, pervenire."

The following passage from Rudorff (Gromat. Inst. ii. p. 302) will explain this passage and give the reader some notions of Roman institutions: "The city Rome, according to an old tradition, assigned out of its most antient territory two 'jugera' to each Assiduus for house, courtyard, and garden. These Romulian 'bina jugera' received the Gentile name (nomen) of the family, to which they were originally assigned. A hundred such allotments made up a Centuria.—The hereditary and inalienable quality of this family property ('heredem sequi') appears from the name 'heredium,' 'jus hereditarium,' 'locus heredum,' 'loca hereditaria,' and from the complete want of a form of alienation, for the oldest mode of transfer, the 'in jure cessio,' arose out of the form of procedure. If the 'heredes' were several, the whole property was distributed according to the hereditary shares into ideal fractions ('unciae'), which by division ('herctum ciere') could be changed into real shares. Thus we find in Valerius Maximus (iv. 4. 8) the following story: "Sexdecim eodem tempore Aelii fuerunt, quibus una domuncula erat, quo nunc sunt Mariana monumenta; et unus in agro Veiente fundus minus multo cultores quam dominos habebat."—Such was the poverty and simplicity of early Roman times. A poor people, who overstocked the land, became a nation of soldiers. The females of the 'gens' had their hereditary portion with the males, but the 'tutela mulierum' secured their shares and did not allow them to pass away. In a note, Rudorff refers to this passage of the oration Pro Sulla, and to the passage in the De Oratore, ii. 55: "Ubi sunt ii fundi, Brute, quos tibi pater publicis commentariis consignatos reliquit." Compare the passage in the Oration Pro Cluentio, c. 51. According to Asconius, the Censors expelled C. Antonius from the Senate, "quod propter aeris alieni magnitudinem praedia mancipavit;" but at that time the fact of his being embarrassed was the cause of the expulsion, I suppose.

21. *objicit*] 'objecit,' Halm, for which there is good authority; 'subjicit,' Orelli. —'per Pompeianos habere:' T. Halm; 'et Pompeianos habere,' Orelli. Pompeii in Campania at the foot of Vesuvius and at the mouth of the Sarnus (Sarno), received a colony of Veterani under the Dictator Sulla. Pompeii is first mentioned by Livy (ix. 38). When Sulla's colony was established at Pompeii, P. Sulla was one of the III. viri coloniae deducendae; and he became one of the Patroni of the Colonia. The Colonia had the name of Colonia Veneria Cornelia (Mommsen, Inscr. R. Neap. Lat. Nor. 2201). The coloni had or claimed to have some superiority over the people of Pompeii. Sulla's colony was settled after the Social war, and the old inhabitants received the Civitas with the other Italians, we must suppose, after B.C. 89, in which year Sulla besieged the place. Whether Sulla treated the Pompeiani like the people of Volaterrae and other places, we do not know, but it may be so. Halm supposes that the old inhabitants sank to the mere condition of 'incolae,' and had neither votes in the community nor seats in the theatres appropriated to the Coloni and in other public buildings. A quarrel at Pompeii during an exhibition of gladiators between the colonists of Nuceria and the Pompeiani is mentioned by Tacitus (Ann. xiv. 17). The Plebs Pompeianorum were active on

ut ad istam conjurationem et ad hoc nefarium facinus accederent, id cujusmodi sit intelligere non possum. An tibi Pompeiani conjurasse videntur? Quis hoc dixit umquam, aut quae fuit istius rei vel minima suspicio? Disjunxit, inquit, eos a colonis, ut hoc discidio ac dissensione facta oppidum in sua potestate posset per Pompeianos habere. Primum omnis Pompeianorum colonorumque dissensio delata ad patronos est, quum jam inveterasset ac multos annos esset agitata; deinde ita a patronis res cognita est ut nulla in re a ceterorum sententiis Sulla dissenserit; postremo coloni ipsi sic intelligunt, non Pompeianos a Sulla magis quam sese esse defensos. Atque hoc, judices, ex hac frequentia colonorum, honestissimorum hominum, intelligere potestis, qui adsunt, laborant; hunc patronum, defensorem, custodem illius coloniae, si in omni fortuna atque omni honore incolumem habere non potuerunt, in hoc tamen casu, in quo afflictus jacet, per vos juvari conservarique cupiunt. Adsunt pari studio Pompeiani, qui ab istis etiam in crimen vocantur; qui ita de ambulatione et de suffragiis suis cum colonis dissenserunt ut idem de communi salute sentirent. Ac ne haec quidem P. Sullae mihi videtur silentio praetereunda esse virtus, quod, quum ab hoc illa colonia deducta sit, et quum commoda colonorum a fortunis Pompeianorum rei publicae fortuna disjunxerit, ita carus utrisque est atque jucundus ut non alteros demovisse, sed utrosque constituisse videatur.

XXII. At enim et gladiatores et omnis ista vis rogationis Caeciliae caussa comparabatur.—Atque hoc loco in L. Caecilium,

this occasion, and the Nucerini, who had gone there to see the spectacle, were very roughly handled. Nothing is said in this passage of Tacitus about the coloni of Pompeii as distinguished from the Pompeiani. Pompeii was buried by the ashes of Vesuvius, in the great eruption of A.D. 79. In modern times it has been restored to the light of day.

agitata;] There is a reading 'exagitata.' Halm quotes Verr. ii. 3. c. 61: "sed (hoc est crimen) vetus, agitatum jam et te praetore jactatum."

hac frequentia] He points to the deputation from Pompeii, who had come to help Sulla on his trial with their Laudatio.—'in quo afflictus:' 'in quo afflictus,' Halm, following T. B. The other MSS. omit 'in.' —'juvari,' T.; 'tutari,' R. and Orelli.

ita—ut] See c. 15. — 'ambulatione:' there is also a reading 'ambitione,' which connected with 'suffragiis' is intelligible. Lambinus could not understand 'ambulatione.' Gruter understood it right as meaning 'porticus,' and he quotes Catullus (lv. 3):—

"Te in campo quaesivimus minore,
Te in Circo, te in omnibus libellis,
Te in templo superi Jovis sacrato,
In Magni simul ambulatione,"

where the context plainly shows the meaning. Ulpian (Dig. 8. 5. 8. § 1) cited by Halm: "competit mihi actio adversus eum, qui cessit mihi talem servitutem, ut in parietem ejus tigna immittere mihi liceat supraque ea tigna verbi gratia porticum ambulatoriam facere." But here it is a terrace resting on columns.

22. *At enim*] Another charge made by the prosecutor. See the Introduction about Caecilius.—'comparabatur:' "*comparabatur* (in place of the Vulg. *comparabantur*), see Madvig's Latin Grammar, § 213 *b*" (Halm); "comparabatur, T. B. S. alii, ed. 1472" (Halm).

pudentissimum atque ornatissimum virum, vehementer invectus est, cujus ego de virtute et constantia, judices, tantum dico; talem hunc in ista rogatione quam promulgarat non de tollenda, sed de levanda calamitate fratris sui, fuisse, ut consulere voluerit fratri, cum re publica pugnare noluerit; promulgarit impulsus amore fraterno, destiterit fratris auctoritate deductus. Atque in ea re per L. Caecilium Sulla accusatur, in qua re est uterque laudandus: primum Caecilius, qui si id promulgarit, in quo res judicatas videbatur voluisse rescindere, ut restitueretur Sulla, recte reprehendis. Status enim rei publicae maxime judicatis rebus continetur; neque ego tantum fraterno amori dandum arbitror ut quisquam de salute suorum consulat, communem relinquat. Nihil de judicio ferebat, sed poenam ambitus auferebat, quae fuerat nuper superioribus legibus constituta. Itaque hac rogatione non judicum sententiam, sed legis vitium corrigebat. Nemo judicium reprehendit, quum de poena queritur, sed legem. Damnatio enim est judicum, quae manebat; poena legis, quae levabatur. Noli igitur animos eorum ordinum, qui praesunt judiciis summa cum gravitate et dignitate, alienare a caussa. Nemo labefactare judicium est conatus: nihil est ejusmodi promulgatum. Semper Caecilius in calamitate fratris sui judicum potestatem perpetuandam, legis acerbitatem mitigandam putavit.

XXIII. Sed quid ego de hoc plura disputem? Dicerem fortasse,

consulere voluerit] Some MSS. Orelli has 'consultum esse voluerit,' and S. in the margin.—'per L. Caecilium:' the name and act of Caecilius are used as a means of attacking Sulla.

qui si . . . reprehendis.] I have followed Halm in this corrupt passage, which he has restored after the MS. of the monastery of Tegernsee, in which however the word 'si' is wanting, and 'stitueretur' is written in place of 'restitueretur.' The passage, as Halm observes, is now better than in former editions, but it cannot be affirmed that it is completely restored. Cicero says 'primum Caecilius,' but there is no 'deinde P. Sulla' corresponding to it.

judicatis rebus continetur;] 'Depends upon maintaining the judgments of the courts.' 'Res judicatas rescindere' is the act of a state which is in a desperate condition (Verr. ii. 5. c. 6): "perditae civitates, desperatis jam omnibus rebus, hos solent exitus exitiales habere, ut damnati in integrum restituantur, vincti solvantur, exules reducantur, res judicatae rescindantur."

de salute] "'dum saluti s. consulat,' Beckii suspic." Orelli. Halm has 'dum saluti' in his text, after T. The other MSS. have 'de salute.'—'At nihil de,' Halm.

auferebat,] There is MSS. authority, so says Lambinus, for 'auferebat,' though Graevius says that Latin ears can scarcely bear 'auferre poenam.' Halm cites Cod. Memm. as authority for 'auferebat.' Most of the MSS. have 'poenam ambitus eam ferebat.' It seems probable however that Cicero opposed to 'ferebat' some other form of the word. Halm has 'sed poenam ambitus eam referebat,' the reading of T. B.; in which case 'nuper' means 'before the enactment of the Lex Calpurnia' (B.C. 67), and the 'superiores leges' are the Leges enacted before the Lex Calpurnia. If the reading in the text is taken, 'poenam auferebat' refers to all the Leges de Ambitu up to the time when the Rogatio of Caecilius was proposed.

sententiam, . . . corrigebat.] 'sententia—corrigebatur,' Halm, following T. only.

et facile et libenter dicerem—si paullo etiam longius quam finis quotidiani officii postulat pietas et fraternus amor L. Caecilium propulisset—implorarem sensus vestros, unius cujusque indulgentiam in suos testarer, peterem veniam errato L. Caecilii ex intimis vestris cogitationibus atque ex humanitate communi. Lex dies fuit proposita paucos; ferri coepta numquam; deposita est in senatu. Kalendis Januariis quum in Capitolium nos senatum convocassemus, nihil est actum prius; et id mandato Sullae Q. Metellus praetor se loqui dixit, Sullam illam rogationem de se nolle ferri. Ex illo tempore L. Caecilius multa de re publica egit: agrariae legi, quae tota a me reprehensa et abjecta est, se intercessorem fore professus est: improbis largitionibus restitit: senatus auctoritatem numquam impedivit; ita se gessit in tribunatu ut onere deposito domestici officii nihil postea nisi de rei publicae commodis cogitarit. Atque in ipsa rogatione ne per vim quid ageretur, quis tum nostrum Sullam aut Caecilium verebatur? nonne omnis ille terror, omnis seditionis timor atque opinio ex Autronii improbitate pendebat? Ejus voces, ejus minae ferebantur; ejus aspectus, concursatio, stipatio, greges hominum perditorum metum nobis seditionesque afferebant. Itaque P. Sulla, hoc importunissimo quum honoris tum etiam calamitatis socio atque comite, et secundas fortunas amittere coactus est, et in adversis sine ullo remedio atque allevamento permanere.

XXIV. Hic tu epistolam meam saepe recitas, quam ego ad Cn.

23. *finis quotidiani officii*] 'Honestas,' says Sylvius; but that is not a sufficient explanation. He means 'further than the limits of our ordinary obligation.' There is the expression 'quotidianum interdictum' (Pro Caecina, c. 31, note); and 'quotidiana crimina' (Verr. ii. 1. c. 19). Cicero says (Ad Div ix. 21): "epistolas quotidianis verbis texere solemus."

fuit proposita] Not 'proposita est.' It was hung up in public for several days.—'deposita:' E. The old reading was 'posita,' which Beck explains thus: "de ea in senatu actum est;" which is certainly a strange explanation. It was 'deposita,' laid down, dropped; instead of being proposed to the Populus.—'mandatu,' Halm.

After the words 'deposita est in Senatu' there follow in many editions 'populum Romanum latuit,' in which there is no sense. Halm says of these words, "*populum r. latuit* lect. vulg. post ed. Crat."

Q. Metellus] Celer. In Cat. i. c. 8.—'agrariae legi:' the Lex of Rullus, against which Cicero delivered his orations (De Lege Agraria, Vol. I[†].). Caecilius was so zealous on behalf of the state that he neglected his private affairs (onere deposito domestici officii).

secundas fortunas] The plural, says Halm, has here the unusual sense of 'good fortune.' He compares the passage in Terence (Andria, i. 1. 69):

> "—— tum uno ore omnes omnia
> Bona dicere et laudare fortunas meas
> Qui gnatum haberem tali ingenio praeditum."

The common meaning of 'fortunae' in the plural number is 'property, a man's material condition' (Divin. c. 20, Vol. I.); 'bona fortunasque' (Verr. ii. 1. c. 44).

24. *recitas,*] I suppose the prosecutor frequently read extracts from this 'verbosa et grandis epistola,' which Cicero wrote about the affairs of his consulship to Pompeius, who was then in Asia. Pompeius did not like the letter (Schol. Ambros. to

Pompeium de meis rebus gestis et de summa re publica misi, et ex ea crimen aliquod in P. Sullam quaeris; et si furorem incredibilem biennio ante conceptum erupisse in meo consulatu scripsi, me hoc demonstrasse dicis, Sullam in illa fuisse superiore conjuratione. Scilicet ego is sum qui existimem Cn. Pisonem et Catilinam et Varguntcium et Autronium nihil scelerate, nihil audacter ipsos per sese sine P. Sulla facere potuisse. De quo etiam si quis dubitasset antea num, id quod tu arguis, cogitasset interfecto patre tuo consule descendere Kalendis Januariis cum lictoribus, sustulisti hanc suspicionem quum dixisti hunc, ut Catilinam consulem efficeret, contra patrem tuum operas et manum comparasse. Quod si tibi ego confitear, tu mihi concedas necesse est hunc, quum Catilinae suffragaretur, nihil de suo consulatu, quem judicio amiserat, per vim recuperando cogitavisse: neque enim istorum facinorum tantorum, tam atrocium crimen, judices, P. Sullae persona suscipit.

Jam enim faciam, criminibus omnibus fere dissolutis, contra atque in ceteris caussis fieri solet, ut nunc denique de vita hominis ac de moribus dicam. Etenim de principio studuit animus occurrere magnitudini criminis, satisfacere exspectationi hominum, de me aliquid ipso qui accusatus eram dicere; nunc jam revocandi estis eo quo vos ipsa caussa, etiam tacente me, cogit animos mentesque

the oration In Cn. Plancium, c. 34). We must infer that the letter was made public, and probably by Cicero himself.

de summa re publica] The reading of T. B. The rest have 'de summa rei publicae.' See In Cat. i. c. 6.

De quo] 'Quo' of course refers to Sulla. The pointing of this sentence is wrong in Orelli's edition. Halm has it right; and it is right in some of the old editions.

descendere] 'In forum' with his lictors, as if he were consul (Manutius); so, he says, they used to speak, for the nobles came down from their houses in the high parts of the city to the Forum. Cicero says in another place 'me . . . cum fascibus descensurum;' and 'cum sacra via descenderem.' Cicero's argument is this: "If Sulla conspired against Torquatus in order to assume the consular authority on the first of January, it is not likely that after his conviction for bribery he got together working men ('operae') and a band in order to secure Catilina's election by votes."

operas] The word is often used for 'operarii,' workmen, hired people, as 'servitia' in the plural for 'servi.'

persona] We may here translate this word 'character.'

contra atque] 'Contra ac' (Verr. ii. 4. c. 6). Halm refers to the Auctor ad Herenn. ii. 3. 5: "Defensor primum demonstrabit vitam integram, si poterit," &c. (See the Introd.) Halm observes that the Greek orators generally put in the last place the 'probabile ex vita;' and that the 'probabile ex vita' is so placed in this oration, because Cicero must have certainly felt that Sulla was not yet sufficiently cleared by the 'dissolutio criminum.' This and many like remarks which occur in modern critics show a great want of practical knowledge. Sulla's guilt was to be established by evidence. We do not know what the evidence was. Cicero says there was no evidence that came before him as consul of Sulla's being implicated in the second conspiracy; and Hortensius had answered about the first conspiracy. We cannot contradict Cicero, for we know no more about Sulla than appears in this oration and in the few other notices in the ancient writers. He was acquitted too, and though an acquittal is not a proof of innocence, it is a fact on which we cannot found a presumption of guilt.

convertere. XXV. Omnibus in rebus, judices, quae graviores majoresque sunt, quid quisque voluerit, cogitarit, admiserit, non ex crimine, sed ex moribus ejus qui arguitur, est ponderandum. Neque enim potest quisquam nostrum subito fingi, neque cujusquam repente vita mutari aut natura converti. Circumspicite paullisper mentibus vestris, ut alia mittamus, hosce ipsos homines qui huic affines sceleri fuerunt. Catilina contra rem publicam conjuravit. Cujus aures umquam haec respuerunt conatum esse hominem a pueritia non solum intemperantia et scelere, sed etiam consuetudine et studio in omni flagitio, stupro, caede versatum? Quis eum contra patriam pugnantem periisse miratur, quem semper omnes ad civile latrocinium natum putaverunt? Quis Lentuli societates cum indicibus, quis insaniam libidinum, quis perversam atque impiam religionem recordatur, qui illum aut nefarie cogitasse aut stulte sperasse miretur? Quis de C. Cethego atque ejus in Hispaniam profectione, ac de vulnere Q. Metelli Pii cogitat, cui non ad illius poenam carcer aedificatus esse videatur? Omitto ceteros, ne sit infinitum. Tan-

25. *non ex crimine,*] The remark is good. When a man is charged with a thing, we ask for the evidence to prove it. If there is no evidence, or if we form any opinion before the evidence is produced, we must not allow the charge to be the measure of what the man may have designed, thought, or done, but we must form our probable judgment from the man's character. Cicero says (Pro Cluentio, c. 25): "perinde ut opinio est de cujusque moribus, ita quid ab eo factum aut non factum sit, existimari potest." It is true that a large part of mankind take the fact of the charge as a probability on the side of guilt. If the charge is made by an honest man, we may assume that he believes it to be true. Still it must be proved. If the character of the man who makes the charge is bad, and the character of the accused is good, the presumption should be that the charge is false. The Romans allowed the examination of slaves by torture in many cases, but they made an exception which was just: "In ea caussa in qua nullis reus argumentis urgebatur, tormenta non facile adhibenda sunt, sed instandum accusatori ut id quod intendit comprobet atque convincat" (Paulus, Dig. 48. 18. 18. § 2).

hominem] 'Audacter hominem a pueritia,' Halm; the reading of the MSS., but 'audacter' is only in T. The common editions have 'usque a pueritia.'—'caede versatum.' The Erfurt MS. has 'grassatum,' but Orelli says that Cicero never uses 'grassari,' and he refers to the oration Pro Sex. Roscio Am. c. 52: "quae hoc tempore in re publica versata est;" and his note there.

indicibus,] 'Informers,' false men who lied to ruin others. In the oration Pro Murena (c. 24), Catilina is said to have been "vallatus indicibus et sicariis." The 'impia religio' is explained by the passage in the oration In Cat. iii. c. 4, where we are told that Lentulus had consulted the Sibylline books and the haruspices. When the books and the haruspices were properly consulted, it was an act of 'religio,' but it was wicked when Lentulus did it, because the purpose was wicked. This will help to explain 'de scelere,' c. 10.

Metelli Pii] He carried on the war in Spain against Sertorius. Nothing more is known about his being wounded by Cethegus; but we may infer that Cethegus had attempted to assassinate Pius sometime and somewhere. Drumann conjectures that Cethegus had accompanied Metellus to Spain to learn the art of war in the campaigns against Sertorius. Sylvius had made the same guess long ago. Halm approves of Drumann's conjecture; but he adds that Cicero expresses himself in such terms that we may refer them to a journey made purposely to commit an assassination. This is the way of some critics. They talk about facts without any evidence for them.

tum a vobis peto ut taciti de omnibus, quos conjurasse cognitum est, cogitetis. Intelligetis unum quemque eorum prius ab sua vita quam vestra suspicione esse damnatum. Ipsum illum Autronium, quoniam ejus nomen finitimum maxime est hujus periculo et crimini, non sua vita ac natura convicit? Semper audax, petulans, libidinosus; quem in stuprorum defensionibus non solum verbis uti improbissimis solitum esse scimus, verum etiam pugnis et calcibus; quem exturbare homines ex possessionibus, caedem facere vicinorum, spoliare fana sociorum, vi [conatum] et armis disturbare judicia, in bonis rebus omnes contemnere, in malis pugnare contra bonos, non rei publicae cedere, non fortunae ipsi succumbere. Hujus si caussa non manifestissimis rebus teneretur, tamen eum mores ipsius ac vita convincerent.

XXVI. Agedum, conferte nunc cum illis vitam P. Sullae, vobis populoque Romano notissimam, judices, et eam ante oculos vestros proponite. Ecquod est hujus factum aut commissum, non dicam

sua vita ac natura] I have followed Halm in this passage, which is corrupt in the editions. There are many readings. Gruter says of the vulgata "non sua consuetudo ac vita convincit," that it is contrary to the edition of 1493 and Pall. octo, which if he could examine well, he could still remove many faults from Cicero. He adds the following, which is worth knowing: "nunc istud moneo tantum, ne arbitrentur homines Ciceroni nihil jam amplius addi, nihil auferri posse: immo nullo auctore hodiernum in diem utimur vitiosiore." The reading in the text is that of T.

in stuprorum] It might perhaps mean when he was defending his own 'stupra;' but most probably it means when he was defending persons who were accused of 'stuprum.' His language was foul, and he was ready to strike and kick. Halm considers this to be a rhetorical exaggeration to indicate the violent passion of Autronius in his action; but I think it expresses his passionate manner generally.

'Stuprum,' in its narrower sense, signifies commerce with a widow or a maid, and also an unnatural crime (Dig. 48. 5. 34). But the word is usually restricted to sexual intercourse with free women, either unmarried or widowed; and it was 'stuprum' whether the man was married or not (Tacit. xiv. 2). The relation called 'concubinatus,' and the commerce with 'meretrices,' was not 'stuprum.' The Lex Julia de adulteriis is the first Lex that we are acquainted with which determined the character of 'stuprum' and the punishment. But this passage of Cicero and other passages show that there were forms of procedure in cases of 'stuprum,' and penalties, before the enactment of the Lex Julia. An attempt to corrupt the chastity of a person was a ground of action. A case is mentioned in Livy (viii. 22) of a man being tried on the "crimen stupratae matrisfamiliae." See also Livy x. 31.

sociorum,] The Provinciales, for such was the meaning of Socii in Cicero's time; at least he often uses the word in this sense. In the letter to his brother Quintus he says (i. 1. c. 1) "nullam defectionem sociorum," where the 'socii' are the Provinciales of the Provincia Asia.

[*conatum*]] Lambinus erased the word, which he supposed to be an interpolation. But it is the reading of most of the MSS. 'Conatum' is certainly not right. Some MSS. have 'vi conatu et armis;' which is feeble. Orelli supposes that we should read "vi coactis et armatis," which form of expression has often been corrupted. But I do not believe that this conjecture restores the true reading.

26. *cum illis*] Some MSS. Halm says, the best have 'cum illius,' where 'illius' must refer to Autronius. Still 'cum illis' gives the better meaning, for 'with them' means 'with their life.' T. has 'cum illius vita,' but as Halm observes, this does not agree with 'vobis . . . notissimam.'

audacius, sed quod cuiquam paullo minus consideratum videretur? Factum quaero? verbum ecquod umquam ex ore hujus excidit, in quo quisquam posset offendi? At vero in illa gravi L. Sullae turbulentaque victoria quis P. Sulla mitior, quis misericordior inventus est? Quam multorum hic vitam est a L. Sulla deprecatus, quam multi sunt summi homines et ornatissimi et nostri et equestris ordinis, quorum pro salute se hic Sullae obligavit? Quos ego nominarem, neque enim ipsi nolunt, et huic animo gratissimo adsunt, sed quia majus est beneficium quam posse debet civis civi dare, ideo a vobis peto ut quod potuit tempori tribuatis, quod fecit ipsi. Quid reliquam constantiam vitae commemorem, dignitatem, liberalitatem, moderationem in privatis rebus, splendorem in publicis? quae ita a fortuna deformata sunt ut tamen a natura inchoata compareant. Quae domus, quae celebratio quotidiana, quae familiarium dignitas, quae studia amicorum, quae ex quoque ordine multitudo? Haec diu multumque et multo labore quaesita una eripuit hora. Accepit P. Sulla, judices, vulnus vehemens et mortiferum, verumtamen ejusmodi quod videretur hujus vita et natura accipere potuisse.

minus consideratum] See Pro Caecina, c. 1.—'in quo quisquam:' 'unde quisquam,' Orelli. T. B. and one Oxon. have 'in quo.'

quis—mitior,] It may be true that P. Sulla saved men's lives, and he may not have been cruel. But Cicero tells us in another place and at a later period of his life (Introd.) that P. Sulla enriched himself by the purchase of the property of the proscribed.

Quam multorum] The 'quam' is found in Gellius, who quotes this passage (vi. 16) as an example of one signification of 'deprecari.' He says of 'deprecari' in this sense: "quod Graeci propria (propinqua) significatione παραιτοῦμαι dicunt."

obligavit?] He means that he undertook or engaged to L. Sulla that these men would never disturb him. He saved their lives by promising for them. The obligation thus contracted is so called from its resemblance to a pecuniary 'obligatio,' in which the surety pays when the principal cannot. Sylvius compares a passage in the fifth Philippic (c. 18) in which Cicero pledges his credit to the Roman people for the fidelity of Octavianus: "Audebo etiam obligare fidem meam, Patres conscripti, vobis populoque Romano—promitto, recipio, spondeo," &c. Cicero afterwards repented of this 'obligatio,' as he says to Brutus, where he very wisely remarks: "est autem gravior et difficilior animi et sententiae, maximis praesertim in rebus, pro altero quam pecuniae obligatio."

ita a fortuna] Here we have the 'ita' and 'ut' again (c. 15). All these things in Sulla have been disfigured by his bad fortune, but still there remain the outlines of that which nature began: as if he were speaking of a handsome face which illness or sorrow had impaired without destroying the original form.

quae celebratio quotidiana,] What daily crowding to his house in the time of his prosperity; what elevated rank in his intimate associates? Orelli has 'familiaris dignitas,' which Sylvius explains by 'non fastuosa, non superba;' but I don't understand that. T. B. have 'familiarium;' the rest have 'familiaris.' One hour, the hour of his conviction, cleared Sulla's house of his friends, when he would learn what the poet knew by experience (Ovid, Trist. I. 9):—

"Donec eris felix multos numerabis amicos,
Tempora quum fuerint nubila, solus eris."

hujus vita] T. B.; 'hujus vita,' Halm. The rest have 'ejus.' He received a wound by his conviction in the trial 'de ambitu,' but still it was a wound that his life and natural character could bear. He was not quite ruined; but a conviction in the present trial would be complete ruin.

Honestatis et dignitatis habuisse nimis magnam judicatus est cupiditatem; quam si nemo alius habuit in consulatu petendo, cupidior judicatus est hic fuisse quam ceteri: sin etiam in aliis nonnullis fuit iste consulatus amor, fortuna in hoc fuit fortasse gravior quam in ceteris. Postea vero quis P. Sullam, nisi maerentem, demissum afflictumque vidit? quis umquam est suspicatus, hunc magis odio quam pudore hominum aspectum lucemque vitare? Qui quum multa haberet invitamenta urbis et fori propter summa studia amicorum, quae tamen ei sola in malis restiterunt, afuit ab oculis vestris, et quum lege retineretur ipse se exsilio paene mulctavit. XXVII. In hoc vos pudore, judices, et in hac vita tanto sceleri locum fuisse creditis? Aspicite ipsum, contuemini os, conferte crimen cum vita: vitam ab initio usque ad hoc tempus explicatam cum crimine recognoscite. Mitto rem publicam, quae fuit semper Sullae carissima: hosne amicos, tales viros, tam cupidos sui, per quos res ejus secundae quondam erant ornatae, nunc sublevantur adversae, crudelissime perire voluit, ut cum Lentulo et Catilina et Cethego foedissimam vitam ac miserrimam turpissima morte proposita degeret? Non, inquam, cadit in hos mores, non in hunc pudorem, non in hanc vitam, non in hunc hominem ista suspicio. Nova quaedam illa immanitas exorta est; incredibilis fuit ac singularis furor; ex multis ab adolescentia collectis perditorum hominum vitiis repente tanta ista importunitas inauditi sceleris exarsit. Nolite, judices, arbitrari, hominum illum impetum et conatum fuisse—neque enim ulla gens tam barbara aut tam immanis umquam fuit in qua non modo tot, sed unus tam crudelis hostis patriae sit inventus—belluae quaedam illae ex portentis immanes ac ferae, forma hominum indutae, exstiterunt. Perspicite etiam atque etiam, judices,—nihil enim est quod in hac caussa dici possit vehementius—penitus introspicite Catilinae, Autronii, Cethegi, Lentuli ceterorumque mentes: quas vos in his libidines, quae flagitia, quas turpitudines, quantas audacias, quam incredibiles furores, quas notas scelerum, quae indicia parricidiorum, quantos acervos facinorum reperietis! Ex magnis et diuturnis et jam desperatis rei publicae morbis ista repente vis erupit, ut ea confecta et ejecta convalescere aliquando et sanari civitas posset. Neque enim est quisquam qui arbitretur,

lege retineretur] The Lex Calpurnia did not inflict the penalty of exile. This penalty was contained in the Lex Tullia, which was enacted after Sulla's conviction for 'ambitus,' and in Cicero's consulship.

27. *cupidos sui,*] 'So much attached to him.' The word has this among other meanings: "summo hominem ingenio, nostrique cupidissimum" (De Or. i. 22). See Vol. I. Pro Fonteio, c. 10.

Nolite, judices,] Compare the passage In Cat. iii. 10: "In hoc autem uno."

illis inclusis in re publica pestibus diutius haec stare potuisse. Itaque eos non ad perficiendum scelus, sed ad luendas rei publicae poenas Furiae quaedam incitaverunt. XXVIII. In hunc igitur gregem vos nunc P. Sullam, judices, ex his qui cum hoc vivunt aut vixerunt honestissimorum hominum gregibus rejicietis? ex hoc hominum numero, ex hac familiarium dignitate in impiorum partem atque in parricidarum coetum ac numerum transferetis? Ubi erit igitur illud firmissimum praesidium pudoris? quo in loco nobis vita ante acta proderit? quod ad tempus existimationis partae fructus reservabitur, si in extremo discrimine ac dimicatione fortunae deseruerit? si non aderit? si nihil adjuvabit?

Quaestiones nobis servorum ac tormenta accusator minitatur, in quibus quamquam nihil periculi suspicamur, tamen illa tormenta gubernat dolor, moderatur natura cujusque quum animi, tum corporis, regit quaesitor, flectit libido, corrumpit spes, infirmat metus, ut in tot rerum angustiis nihil veritati loci relinquatur. Vita P. Sullae torqueatur: ex ea quaeratur, num quae occultetur libido, num quod lateat facinus, num quae crudelitas, num quae audacia. Nihil erroris erit in caussa nec obscuritatis, judices, si a vobis vitae perpetuae vox, ea quae verissima et gravissima debet esse, audietur.

28. *hominum gregibus*] T.; 'amicorum gregibus,' Halm.—'ex hac familiari dignitate,' Orelli; but he supposes that it should be 'familiarium,' and so Halm writes it, following T. and B. corr. Two MSS. have 'familiarum,' and the edition of Ascensius, 1511.

coetum] 'sedem,' Halm from T. Some of the MSS. have 'cedem' or 'caedem.' Halm says that the authority for 'coetum' is uncertain. He also has 'si non extremo . . . deserviet.'

Quaestiones] As the hearing of the witnesses took place at the end of the actio after the speeches on both sides (Quintil. v. 7, 25: 'testis post finitas actiones rogabatur'), so also the 'quaestiones servorum.' See the note on Torture, Vol. II. Pro Cluentio, c. 63. There is something on 'quaestiones' in the Auctor ad Herennium ii. 7, where we have the rhetorical argument for and against torture briefly stated; and in Quintilian (v. 4). A passage in the Digest quoted by Sylvius is worth reading: "Quaestioni fidem non semper nec tamen nunquam habendam constitutionibus declaratur, etenim res est fragilis et periculosa et quae veritatem fallat. Nam plerique patientia sive duritia tormentorum ita tormenta contemnunt ut exprimi eis veritas nullo modo possit; alii tanta sunt impatientia ut quodvis mentiri quam pati tormenta velint; ita fit ut etiam vano modo fateantur et non tantum se verum etiam alios criminentur." The whole title De Quaestionibus is instructive. (Dig. 48. tit. 18. 1. § 23. Ulpian.)

The quaesitor is he who directs the torture, not the torturer (tortor) himself, as Gulielmius supposed. In the Digest (48. 18. 1. § 21) he is thus described: "Qui quaestionem habiturus est." "Sed testium interrogationi tormentis servorum Macronem praesedisse commentarii ad senatum missi ferebant" (Tacit. Ann. vi. 47). The commentarii contained the evidence. See Vol. II. Pro Cluentio, c. 65, note on 'tabellae quaestionis.'

corrumpit spes, infirmat metus,] Hope of rewards, as for instance, liberty, says Halm. He means any hope, the hope of being released from the torture. Halm quotes a German translation of the passage as excellent: 'auf die Folter übt die Hoffnung ihren verführenden, die Furcht ihren schwächenden Einfluss aus.'

vitae perpetuae vox,] He is speaking as if he were speaking of evidence. The life of Sulla is to be put to the torture, and the evidence of the whole of his life, without the omission of any part of it (vitae perpetuae vox), will be heard.

Nullum in hac caussa testem timemus; nihil quemquam scire, nihil vidisse, nihil audisse arbitramur. Sed tamen, si nihil vos P. Sullae fortuna movet, judices, vestra moveat. Vestra enim, qui cum summa elegantia atque integritate vixistis, hoc maxime interest, non ex libidine aut simultate aut levitate testium caussas honestorum hominum ponderari, sed in magnis disquisitionibus repentinisque periculis vitam unius cujusque esse testem. Quam vos, judices, nolite armis suis spoliatam atque nudatam objicere invidiae, dedere suspicioni. Munite communem arcem bonorum, obstruite perfugia improborum. Valeat ad poenam et ad salutem plurimum, quam solam videtis ipsam ex vi sua naturaque facillime perspici, subito flecti fingique non posse.

XXIX. Quid vero haec auctoritas, semper enim de ea dicendum est, quamquam a me timide modiceque dicetur, quid, inquam, haec auctoritas nostra, qui a ceteris conjurationis caussis abstinuimus, P. Sullam defendimus, nihil hunc tandem juvabit? Grave est hoc dictum fortasse, judices; grave, si appetimus aliquid; si, quum ceteri de nobis silent, non etiam nosmet ipsi tacemus. grave. Sed si laedimur, si accusamur, si in invidiam vocamur, profecto conceditis, judices, ut nobis libertatem retinere liceat, si minus liceat dignitatem. Accusati sunt uno nomine consulares, ut jam videatur

elegantia] We may translate it 'purity' perhaps, or 'propriety.' It is a word applied to style also.

arcem bonorum,] This is the past life of a man, his character, which is the stronghold of the honest. He then says "stop up the lurking places of the dishonest." Lambinus would read 'pertugio,' which he explains thus: "id est quasi murum struite adversus perfugium improborum." See Vol. II. Verr. ii. 4. c. 36. There is no various reading here.

The nominative to 'valeat ad poenam' is 'vita.' Halm following T. has 'ex sua natura facillime.' This word 'valeat' is difficult to translate (Vol. 1. Divin. c 19; In Cat. iii. 12). "Let that avail most both for a man's acquittal and for his condemnation, his past life, which alone, as you know, can be most easily judged by its own character, and cannot all at once be changed and assume a new character." Comp. c. 25: "Neque enim potest quisquam," &c.

29. *auctoritas,*] Halm as usual writes it thus: 'Quid vero? haec auctoritas.' It is the testimony of the speaker, not proper testimony, for that comes from a witness on oath, but the declaration of a man whose word has credit.—'semper enim:' Halm in his small edition thinks that Spengel's conjecture 'saepe' for 'semper' has great probability. In his larger edition he simply mentions it. I can imagine no reason at all for the conjecture. Cicero, I suppose, might have written either. The evidence is that he wrote 'semper.'—'grave:' 'disagreeable,' 'offensive to people's ears.' It is offensive when we claim a thing (si appetimus aliquid), as for instance, credit for what we say. A man should be silent about himself. If people will not talk about him, and a man will talk about himself, people will not like it. "But if we are attacked, charged, made an object of dislike, then indeed you must allow us, Judices, to retain the liberty of speech, if we cannot maintain the dignity of our character."

Accusati—consulares,] Torquatus blames all, and Cicero among them, for helping Sulla. The objection of Torquatus, contained in the words 'Adfuerunt, inquit, Catilinae,' must refer, as Halm says, to Catilina's prosecution for 'incestus' (Introd. to the orations against Catilina), on which occasion (Orosius, vi 3) Catilina owed his acquittal to the support of Lutatius Catulus. Catilina's prosecution 'de repetundis' is

honoris amplissimi nomen plus invidiae quam dignitatis afferre.—Adfuerunt, inquit, Catilinae illumque laudarunt.—Nulla tum patebat, nulla erat cognita conjuratio: defendebant amicum, aderant supplici, vitae ejus turpitudinem in summis ejus periculis non insequebantur. Quin etiam parens tuus, Torquate, consul reo de pecuniis repetundis Catilinae fuit advocatus, improbo homini, at supplici, fortasse audaci, at aliquando amico. Cui quum adfuit post delatam ad eum primam illam conjurationem, indicavit se audisse aliquid, non credidisse.—At idem non adfuit alio in judicio, quum adessent ceteri.—Si postea cognorat ipse aliquid, quod in consulatu ignorasset, ignoscendum est iis qui postea nihil audierunt. Sin illa res prima valuit, num inveterata quam recens debuit esse gravior? Sed si tuus parens, etiam in ipsa suspicione periculi sui, tamen humanitate adductus advocationem hominis improbissimi sella curuli atque ornamentis et suis et consulatus honestavit, quid est quamobrem consulares qui Catilinae adfuerunt reprehendantur?—At iidem iis, qui ante hunc caussam de conjuratione dixerunt, non adfuerunt.—Tanto scelere astrictis hominibus statuerunt nihil a se adjumenti, nihil opis, nihil auxilii ferri oportere. Atque ut de eorum constantia atque animo in rem publicam dicam, quorum tacita gravitas et fides de uno quoque loquitur neque cujusquam ornamenta orationis desiderat, potest quisquam dicere umquam meliores, fortiores, constantiores consulares fuisse quam iis temporibus et peri-

mentioned afterwards; on which trial the consul Torquatus helped him, though Catilina is charged with having designed to murder Torquatus. Here Cicero tells us that Torquatus said he had heard something of the conspiracy, but did not believe it. We do not know what to believe ourselves. It is very hard to believe Cicero.

post delatam ad eum] Halm has a note on 'eum,' which he says is logically right, but contrary to the general use of the language, which requires 'ad se.' I suppose then that the general use of the language is illogical. He adds, "the participial clause thus appears as an independent clause, not as an intermediate clause swallowed up in the chief clause. Examples are very rare." But there are examples of such a use of 'is,' where some people expect the reflective pronoun.

At idem] Torquatus says this. He is speaking of Catilina's trial in B.C. 64 (Introd. to the orations against Catilina, p. 4). Cicero says, if Torquatus had afterwards found out something, which he knew not in his consulship, he must excuse those who afterwards heard nothing at all. But if the first thing (delata ad eum conjuratio) was the cause of his not assisting Catilina on this last trial, "ought the matter, when it had become stale, to have been considered weightier than when it was recent?"

Sed si] With these words Cicero returns to Torquatus' aid to Catilina on his trial, when induced by his mild disposition (humanitate) Torquatus honoured Catilina's advocates (advocatio) by appearing seated in his chair of office. The true reason why he was there, says Halm, was more truly the fear of this dangerous personal enemy. So we may guess, or some other good reason; not that which Cicero gives.

'Advocatio' is the body of 'advocati.' Pro Roscio Com. c. 5, Vol. II.

At iidem iis.] Another objection of the prosecutor: the same men did not help on their trial those who had been tried for the conspiracy before Sulla was tried. This is said to show their inconsistency, but Cicero makes it a proof of their consistency.

culis, quibus paene oppressa est res publica? Quis non de communi salute apertissime, quis non fortissime, quis non constantissime sensit? Neque ego praecipue de consularibus disputo. Nam haec et hominum ornatissimorum qui praetores fuerunt, et universi senatus communis est laus, ut constet post hominum memoriam numquam in illo ordine plus virtutis, plus amoris in rem publicam, plus gravitatis fuisse. Sed quia sunt descripti consulares, de his tantum mihi dicendum putavi quod satis esset ad testandam omnium memoriam, neminem esse ex illo honoris gradu qui non omni studio, virtute, auctoritate incubuerit ad rem publicam conservandam. XXX. Sed quid ego, qui Catilinam non laudavi, qui reo Catilinae consul non adfui, qui testimonium de conjuratione dixi in alios, adeone vobis alienus a sanitate, adeo oblitus constantiae meae, adeo immemor rerum a me gestarum esse videor ut, quum consul bellum gesserim cum conjuratis, nunc eorum ducem servare cupiam, et in animum inducam, cujus nuper ferrum rettuderim flammamque restinxerim, ejusdem nunc caussam vitamque defendere? Si medius fidius, judices, non me ipsa res publica, meis laboribus et periculis conservata, ad gravitatem animi et constantiam sua dignitate revocaret, tamen hoc natura est insitum, ut, quem timueris, quicum de vita fortunisque contenderis, cujus ex insidiis evaseris, hunc semper oderis. Sed quum agatur honos meus amplissimus, gloria rerum gestarum singularis, quum, quoties quisque est in hoc scelere con-

apertissime,] Spengel alters this to 'optime,' and Halm accepts the alteration, saying after Spengel that it is a clear repetition of the words 'meliores, fortiores, constantiores.' But how did 'apertissime' get into the text, if Cicero wrote 'optime?' That is more than I can explain. 'Apertissime . . . sensit' is like 'sentire libere' in c. 8.

praetores] L. Flaccus and C. Pomptinus. —'descripti:' designated in some way. Klotz says that this is the proper rhetorical technical expression, when a man is not expressly named, but is so described that any body can tell who is meant. He quotes Pro Milone, c. 18, where it certainly has this meaning. And so he explains the passage in Horace (Sat. i. 4, v. 3):

> "Si quis erat dignus describi quod malus aut fur:"

where I do not think that 'describi' has that meaning, for the old comic writers of Athens named men. It depends on the context whether the 'descriptio' is by name or not.—'ad testandam:' Halm has 'ad testandam omnium memoriam,' which is from Lambinus. E. has 'ad testandam.' Some MSS. have 'attestantem memoriam,' out of which we may make 'ad testandam memoriam.'

30. *consul non adfui,*] Here he says that he never as consul assisted Catilina on his trials. Catilina was not tried during his consulship, and Cicero therefore when he was consul could not defend the man; and Torquatus' father when he was consul did defend him. He says 'consul' in order to put himself in contrast with Torquatus' father; and accordingly this passage does not allow us to make any conclusion positive or negative about Cicero having defended Catilina on his trial de Repetundis (Introd. to the orations against Catilina, p. 2).

medius fidius,] See Pro Sex. Roscio Am. c. 34.—'in animum inducam:' Madvig prefers 'animum inducam.'

quem timueris,] I suppose this 'locus communis' or remark is true; unless we add that a man may despise such an enemy.

quoties quisque] T. B. Halm. The other MSS. have 'quisquam.'—'in hoc scelere:'

victus, toties renovetur memoria per me inventae salutis, ego sim tam demens, ego committam ut ea quae pro salute omnium gessi, casu magis et felicitate a me quam virtute et consilio gesta esse videantur?—Quid ergo, hoc tibi sumis, dicet fortasse quispiam, ut quia tu defendis innocens judicetur?—Ego vero, judices, non modo mihi nihil assumo in quo quispiam repugnet, sed etiam, si quid ab omnibus conceditur, id reddo ac remitto. Non in ea re publica versor, non iis temporibus caput meum obtuli pro patria periculis omnibus, non aut ita sunt exstincti quos vici, aut ita grati quos servavi, ut ego mihi plus appetere coner quam quantum omnes inimici invidique patiantur. Grave esse videtur eum qui investigarit conjurationem, qui patefecerit, qui oppresserit, cui senatus singularibus verbis gratias egerit, cui uni togato supplicationem decreverit, dicere in judicio; Non defenderem, si conjurasset. Non dico id, quod grave est; dico illud, quod in his caussis conjurationis non auctoritati assumam, sed pudori meo: Ego ille conjurationis investigator atque ultor certe non defenderem Sullam, si conjurasse arbitrarer.—Ego, judices, de tantis omnium periculis quum quaererem omnia, multa audirem, crederem non omnia, caverem omnia, dico hoc, quod initio dixi, nullius indicio, nullius suspicione, nullius litteris de P. Sulla rem ullam ad me esse delatam.

XXXI. Quamobrem vos, dii patrii ac penates, qui huic urbi atque huic rei publicae praesidetis, qui hoc imperium, qui hanc libertatem, qui populum Romanum, qui haec tecta atque templa me consule vestro numine auxilioque servastis, testor, integro me animo ac libero P. Sullae caussam defendere; nullum a me sciente facinus occultari, nullum scelus susceptum contra salutem omnium defendi ac tegi. Nihil de hoc consul comperi, nihil suspicatus sum, nihil

'convincor' is generally followed by an ablative without 'in' or by a genitive, or with 'de' and the ablative. Halm refers to Tacit. Ann. xv. 44. Cicero de Invent. ii. c. 10.

casu magis et felicitate] 'By chance rather and through good fortune;' for 'felicitas' is the gift of Fortuna. Cato (Ad Div. x. 5. 5) says in a letter to Cicero written long after this something to the same effect, but in different words.

pro patria] Halm says that all the MSS. have 'pro patriae periculis omnibus;' but a dative is required after 'obtuli.'—'plus appetere:' compare 'si appetimus aliquid,' c. 29.

singularibus verbis] See In Cat. iii. 6, where he gives the words. Here he has 'grave' again: it might be offensive, if a man should say, "I would not defend him, if he had been a conspirator." The offensive part of this expression is the latent arrogance: the orator makes himself the judge. There is some sarcasm or irony here, as Manutius says. But instead of saying this, Cicero says, he will assume to say what he afterwards says, not as an assertion to be received on his credit, but as what a man may modestly say: "I would not have defended Sulla, if I had supposed him to have been a conspirator."

nullius indicio,] Halm adds 'nullius nuntio,' from E.

31. *qui hanc libertatem, &c.*] 'qui hanc . . . Romanum,' Halm. There is a reading 'libertatem populumque Romanum.'

audivi. Itaque idem ego ille, qui vehemens in alios, qui inexorabilis in ceteros esse visus sum, persolvi patriae quod debui; reliqua jam a me meae perpetuae consuetudini naturaeque debentur: tam sum misericors, judices, quam vos; tam mitis quam qui lenissimus. In quo vehemens fui vobiscum, nihil feci nisi coactus; rei publicae praecipitanti subveni: patriam demersam extuli; misericordia civium adducti tum fuimus tam vehementes quam necesse fuit. Salus esset omnium amissa una nocte, nisi esset severitas illa suscepta. Sed ut ad sceleratorum poenam amore rei publicae sum adductus, sic ad salutem innocentium voluntate deducor.

Nihil video esse in hoc P. Sulla, judices, odio dignum, misericordia digna multa. Neque enim nunc propulsandae calamitatis suae caussa supplex ad vos, judices, confugit; sed ne qua generi ac nomini suo nota nefariae turpitudinis inuratur. Nam ipse quidem, si erit vestro judicio liberatus, quae habet ornamenta, quae solatia reliquae vitae, quibus laetari et perfrui possit? Domus erit, credo, exornata; aperientur majorum imagines; ipse ornatum ac vestitum recuperabit. Omnia, judices, haec amissa sunt: omnia generis, nominis, honoris insignia atque ornamenta unius judicii calamitate occiderunt. Sed ne exstinctor patriae, ne proditor, ne hostis appelletur, ne hanc labem tanti sceleris in familia relinquat, id laborat, id metuit; ne denique hic miser conjurati et conscelerati et proditoris

una nocte,] He may be speaking generally without meaning any particular night. Halm suggests that he means either the night of the second of December on which the ambassadors of the Allobroges were seized, or the night of the Saturnalia on which Rome was to be fired. He may mean the evening of that day on which the conspirators were executed, for the prompt punishment of the leaders terrified all their partizans. In the oration Pro Flacco, c. 40, 41, he says 'O nox illa;' but there the meaning seems to be determined by applying the words to Flaccus' services in seizing the Allobroges.

Nihil video] Sylvius refers to Quintilian (vi. 1, 23) who informs us how that part of the Peroratio which contains the Miseratio is to be managed.—'calamitat s suae:' his fall (see Vol. I. Verr. ii. 3. c. 98), after the conviction in the trial for Ambitus.

imagines;] The wax busts of his ancestors (Verr. ii. 5. c. 14) which were kept in cases in the Atrium. We may suppose that Sulla's Imagines were now boxed up, and would never be brought out on festal days or on funerals as the practice was at Rome. It does not seem probable, I think, as Becker says (Handbuch ii. 1. p. 232), that Sulla lost the privilege of taking his ancestors out of their boxes in consequence of his conviction for bribery; I mean that no such consequence was contained in the Lex. But as it was the practice for a man in his condition to avoid display, to live in such a way as to excite compassion rather than indignation, it is likely that it was the fashion for people in his condition to avoid any display of any kind. Sulla was cunning, and having got into disgrace, he thought the best thing was to keep quiet and let all be forgotten. This picture of the degradation of a man whose only offence was bribery at an election presents a curious contrast with the condition of an English member of parliament who has been unseated for bribery.—'vestitum pristinum,' E.

hic miser] Sulla's son who was present. This was one of the ways of moving pity, which Quintilian mentions (vi. 1, 24): "non solum autem dicendo, sed etiam faciendo quaedam lacrimas movemus; unde et producere ipsos qui periclitentur squalidos atque deformes et liberos eorum ac parentes

filius nominetur; huic puero, qui est ei vita sua multo carior, metuit, cui honoris integros fructus non sit traditurus, ne aeternam memoriam dedecoris relinquat. Hic vos orat, judices, parvus ut se aliquando, si non integra fortuna, at ut afflicta, patri suo gratulari sinatis; huic misero notiora sunt judiciorum itinera et fori quam campi et disciplinarum. Non jam de vita P. Sullae, judices, sed de sepultura contenditur. Vita erepta est superiore judicio: nunc ne corpus ejiciatur laboramus. Quid enim est huic reliqui quod eum in vita hac teneat, aut quid est quamobrem haec cuiquam vita videatur? XXXII. Nuper is homo fuit in civitate P. Sulla, ut nemo ei se neque honore neque gratia neque fortunis anteferret: nunc spoliatus omni dignitate quae erepta sunt non repetit; quod fortuna in malis reliqui fecit, ut cum parente, cum liberis, cum fratre, cum his necessariis lugere suam calamitatem liceat, id sibi ne eripiatis, vos, judices, obtestatur. Te ipsum jam, Torquate, expletum hujus miseriis esse par erat. Etsi nihil aliud Sullae nisi consulatum abstulissetis, tamen eo contentos vos esse oportebat. Honoris enim contentio vos ad caussam, non inimicitiae deduxerunt. Sed quum huic omnia cum honore detracta sint, quum in hac fortuna miserrima ac luctuosissima destitutus sit, quid est quod expetas amplius? Lucisne hanc usuram eripere vis, plenam lacrimarum atque maeroris, in qua cum maximo cruciatu atque dolore retinetur? Libenter

institutum, et ab accusatoribus ostendi cruentum gladium, et lecta e vulneribus ossa et vestes sanguine perfusas videmus et vulnera resolvi ac verberata corpora nudari. Quarum rerum ingens plerumque vis est, velut in rem praesentem animos hominum inducentium."

campi et disciplinarum.] The exercises in the Campus Martius and the schools, which the youth is supposed to have neglected in order to seek the roads to the places of trial and the forum. All this is rhetorical, according to the rules of art, but there is no genuine feeling or oratory in it. —'vita:' the consequence of the former trial in which Sulla was convicted, was a 'deminutio capitis.' We must infer from this passage that a condemnation in the present trial would be followed by the 'aquae et ignis interdictio,' perhaps for life, and Sulla would consequently not be buried with his fathers. There is a like passage about interment in the oration Pro C. Rabirio, c. 13: "neque a vobis jam bene vivendi sed honeste moriendi facultatem petit: neque tam ut domo sua fruatur quam ne patrio sepulcro privetur laborat." This was a 'locus communis,' expected of the orator, and produced by him as a matter of course: "hujus vos animi monumenta retinebitis, corporis in Italia nullum sepulcrum esse patiemini" (Pro Milone, c. 38).

32. *cum parente,*] He seems to mean his mother. The brother is L. Caecilius. —'honoris contentio:' 'the contest for the consulship'—'destitutus:' "for 'constitutus' with the additional notion of 'being deserted'" (Halm). This is the meaning, but why is one word supposed to be put for another? Sulla is in a most miserable condition, and destitute too of every thing to help him.

Lucisne hanc usuram] This is one of Cicero's expressions, like the following in Lucretius (iii. 971, ed. Lachmann):—

> "Vitaque mancipio nulli datur, omnibus usu."

Life is not a property. Nature gives us only the use or enjoyment of it. 'Usus' is an estate for life (Vol. II. Pro Caecina, c. 4, note on Usus et fructus). See Vol. I. Verr. ii. 3. c. 62, note on Usura.

reddiderit adempta ignominia foedissimi criminis. An vero inimicum ut expellas? cujus ex miseriis, si esses crudelissimus, videndo fructum caperes majorem quam audiendo. O miserum et infelicem illum diem, quo consul omnibus centuriis P. Sulla renuntiatus est! o falsam spem! o volucrem fortunam! o caecam cupiditatem! o praeposteram gratulationem! Quam cito illa omnia ex laetitia et voluptate ad luctum et lacrimas reciderunt, ut, qui paullo ante consul designatus fuisset, repente nullum vestigium retineret pristinae dignitatis! Quid enim erat mali quod huic spoliato honore, fama, fortunis, deesse videretur, aut cui novae calamitati locus ullus relictus esset? Urget eadem fortuna quae coepit; repperit novum maerorem; non patitur hominem calamitosum uno modo afflictum uno in luctu perire.

XXXIII. Sed jam impedior egomet, judices, dolore animi ne de hujus miseria plura dicam. Vestrae jam sunt partes, judices: in vestra mansuetudine atque humanitate caussam totam repono. Vos, rejectione interposita, nihil suspicantibus nobis, repentini in

An . . . ut expellas?] "That is to say 'id agis (expetis) ut,' a change in the construction after 'eripere vis' has preceded." Halm. I do not think that this is the explanation. 'Expellas' depends on 'vis:' "Is it your design to drive him out of the country?" Cicero says in Vatin. c. 7: "Volo ut mihi respondeas:" "I demand an answer from you."

omnibus centuriis] "Nam quum propter dilationem comitiorum ter praetor primus centuriis cunctis renuntiatus sum." De Imp. Cn. Pompeii, c. 1.—'reciderunt:' the true form would be 'recciderunt,' as we have 'repperit' shortly after. Lachmann (Lucretius, i. 857, 1063) writes 'reccidere' even in the present tense:—

> "At neque reccidere ad nilum res posse neque autem
> Crescere de nilo testor res ante probatas"

See his note (v. 614) on 'rellatum,' 'reccidere,' 'redducunt,' and 'redducere.'

aut cui novae . . . relictus esset?] Perhaps the word 'videretur' led the orator almost unconsciously to write 'relictus esset,' if it is right. Halm suggests that it should be either 'relictus est,' or 'relictus esse' with 'videbatur' understood. In his larger edition he observes that Cod. Parcensis has 'relictus esse,' and that F. Car. Wolff preferred 'relictus est.'

33. *dolore animi*] His grief prevents him from saying more. So it was when he spoke for Milo: "Sed finis sit, neque enim prae lacrimis jam loqui possum" (c. 38). This is all rhetorical art or artifice. Perhaps it was never said, and only written. Quintilian tells us that the orator must be moved before he can move others. If he is not really moved, he must seem to be moved. He must be an actor; with this difference, that the actor only attempts to represent the passion of another, and if he does not really feel, we impute no moral turpitude to him; and yet he must feel if he would move us deeply. If the orator feels not, and only makes a show of feeling, we condemn him as a hypocrite.

Vestrae jam] 'Vestrae sunt jam,' E.T.B., Halm. I think that he has the 'jam' in the wrong place. There is nothing in which the MSS. differ so much as in the order of words, and it is often very difficult to decide which order is best. Further on, Halm writes 'Hoc cum a vobis impetrare,' where again, I think that he is wrong. Further on still he has 'In quo ego vos, judices,' in place of the common reading 'In quo ego, judices, vos;' where he is right.

rejectione interposita,] The 'rejectio' is the challenge of a 'judex,' the refusal of the prosecutor or the accused to accept a man as 'judex.' Verres challenged some of his judices (Vol. I. Act. i. c. 3, note). This is a difficult passage. Halm quotes Mommsen's opinion (De Collegiis et Sodalitiis, p. 65), who says that the judices in these causes were the so-called 'editicii,' whom

nos judices consedistis, ab accusatoribus delecti ad spem acerbitatis, a fortuna nobis ad praesidium innocentiae constituti. Ut ego, quid de me populus Romanus existimaret, quia severus in improbos fueram, laboravi, et quae prima innocentis mihi defensio est oblata suscepi, sic vos severitatem judiciorum, quae per hos menses in homines audacissimos facta sunt, lenitate ac misericordia mitigate. Hoc quum impetrare a vobis ipsa caussa debet, tum est vestri animi atque virtutis declarare, non esse eos vos ad quos potissimum interposita rejectione devenire convenerit. In quo ego vos, judices, quantum meus in vos amor postulat, tantum hortor, ut communi studio, quoniam in re publica conjuncti sumus, mansuetudine et misericordia vestra falsam a nobis crudelitatis famam repellamus.

the prosecutor chose, and of whom the accused could only reject a certain number, as for instance, after the Lex Licinia de Sodalitiis. But this Lex Licinia was not yet enacted. Mommsen further, in a private communication to Halm, remarks that the accused was required to make his challenge as soon as the names of the judices were given to him, and that the remainder immediately took their seats, and the trial began: he had no time allowed for consideration. A reference is made to an article by Mommsen in the Zeitschrift für Geschichtl. Rechtsw. (xv. p. 324); but that passage does not prove the assertion.

We may collect as much from Cicero as we are able to know; and yet we must remember that he colours facts in such a way that we cannot get the truth from him. He says: "You, after the challenge was settled, before we could suspect any thing, took your seats all at once as our judices, selected by the prosecutors because they hoped that you would be inexorable, but appointed by our good luck to protect innocence." Nobody can tell what all this means, unless he can tell us the exact facts; and nobody can do that. The expression 'rejectionem interponere' seems to mean no more than that the challenge must come before the trial begins: it is an act interposed. Cicero says that it was done quick, before the defendants had time to look about them. The judices were selected by the prosecutors because they expected that these judices would condemn; but though chosen by the prosecutors with this view, the goddess Fortune made them the protectors of innocence. Mai published a Scholiast on this oration, supposed to be Asconianus Pedianus.' The Scholiast observes that the meaning is very obscure, and he proceeds to explain it. But he has done nothing.

I have translated 'in nos judices' by 'our judices,' which is right. It does not mean 'against us,' for that would contradict what follows. Compare Pro Cluentio, c. 10: "in quem judices non estis" (Vol. II.).

The Delecti judices are the judices taken for a particular case. The Selecti judices are those whose names were in the Album Judicum (Index, Vol. I.).

per hos menses] See the Introduction. The whole context, 'prima innocentis defensio' and 'per hos menses,' leads to the conclusion that this trial took place in B.C. 62.—'non esse eos vos:' "that you are not the men to whose decision before all others the prosecutors should have brought their case." This is the meaning. It may be expressed in various ways.

vestra falsam] Halm has 'nostra falsam.' The authority for 'nostra' is 'Cod. Bern. et Lambinus.'

INTRODUCTION

TO THE

ORATION FOR A. LICINIUS ARCHIAS,

THE POET.

A. Licinius Archias was a native of Antiochia in Syria. We know little about him except what Cicero has told us in this oration. He distinguished himself by his talents in his native city (c. 3), which he left when he was a very young man to travel in other parts of Asia and in Greece. Cicero speaks in the most extravagant terms of his reputation. He made what is vulgarly called a sensation, wherever he came, and even before he reached a place. His great talent was to make extempore verses (improvvisare) (c. 8): he was a man for display, a wordy Greek. Quintilian (Inst. x. 7, 19) mentions this talent of Archias, but only on the authority of Cicero. Archias next visited the south of Italy, and received among other distinctions the citizenship in Tarentum, Rhegium, and Neapolis. In B.C. 102, in the consulship of Marius and Catulus, he came to Rome where he got the patronage of the Luculli, and he retained the friendship of this powerful family to the last. Cicero (c. 3) using a Roman expression says that Archias was a very young man (praetextatus) when he came to Rome. He must have been a mere boy, if we give to this word its proper meaning. The Luculli received him well, says Cicero, who means L. Lucullus, the father, and his sons Lucius who afterwards conducted the war against Mithridates, and Marcus. But the sons were still boys. In B.C. 102 L. Lucullus the father had the command of the Roman troops in the Servile war in Sicily.

Drumann maintains that Archias accompanied Lucullus the father to Sicily, and his authority for this assertion is Cicero (c. 4). But this depends on the reading of that passage (cum L. Lucullo), on the interpretation of the words 'Interim satis longo intervallo,' and on the words 'cum eodem Lucullo decederet.' There are many objections to Drumann's opinion, and it seems more likely that 'cum L. Lucullo' should either be 'cum M. Lucullo' (c. 4, note); or that the son L. Lucullus is meant. If Archias came to Rome in B.C. 102, he could not

have accompanied Lucullus the father to Sicily; for it was some time after his arrival in Rome, says Cicero, that Archias accompanied Lucullus to Sicily. Halm assumes that it was M. Lucullus the son, whom he went with; and he conjectures that this journey was connected with the prosecution which L. and M. Luculli conducted against the augur Servilius (Plutarch, Lucullus, c. 1). L. Lucullus the father had been prosecuted for Peculatus or maladministration during his Sicilian praetorship by Servilius, and had gone into exile.

On leaving Sicily with Lucullus, Archias went to Heraclea in Lucania, where he was admitted a citizen through the influence of Lucullus. It is conjectured that Lucullus the father was living at Heraclea. But it is just as reasonable to conjecture that he was living somewhere else. This visit to Heraclea was before the Marsic war, as the narrative of Cicero shows (c. 4). In B.C. 89 the Lex Plautia et Papiria gave the Roman 'civitas' on certain conditions to all persons whose names were at that time enrolled on the list of citizens in a Civitas Foederata. Heraclea had a Foedus with Rome, and Archias who wished to become a Roman citizen made the necessary declaration at Rome before his friend the praetor Q. Metellus Pius, and was admitted a Roman citizen. After the fashion of Greeks who got the Roman 'civitas' through a Roman patron, he adopted the Gentile name of his patron, and became A. Licinius Archias. The new citizens were not enrolled on the Censors' lists before the Census of B.C. 86, and Archias was then in Asia with L. Lucullus, who was Sulla's quaestor (c. 5). Again in B.C. 70 Archias was not entered on the Censors' lists, for he was in Asia with L. Lucullus who was then conducting the war against Mithridates. In B.C. 65, 64 there was no census.

In B.C. 62 a man named Gratius prosecuted Archias before the praetor, who was, as the Scholiast says, Q. Cicero, Marcus' brother, and under the Lex Papia, which was directed against those who acted as if they had the Civitas without being entitled to it. This fact appears from the Argumentum published by Mai. The motives of the prosecutor are not mentioned by Cicero, but modern acuteness can discover them: "In Archias his prosecutor attacked the protectors of Archias: it can scarcely be doubted that the prosecutor, a man in other respects altogether unknown, acted at the instigation of the Pompeian party, which the year before had sustained a defeat by the triumph of L. Lucullus" (Drumann, Geschichte Roms, iv. 202).

Cicero defended Archias who had begun to write a poem on Cicero's consulship; and this was the reason, says Halm, though he does not say how he knows it, that Cicero undertook the poet's defence, rather than the reason which Cicero gives in the opening of his speech. A year later Cicero says to Atticus (i. 16): Archias has written nothing about

me; and yet he says in this oration that Archias had begun the poem (c. 11). He adds that he is afraid that Archias was employed upon a Caeciliana Fabula, something perhaps that related to the Gens Caecilia. However Cicero made up for Archias' omission by writing the history of his consulship in Greek prose; and he was so vain as to think that nobody could venture to handle the same subject after him (Ad Att. i. 20).

So far as we can judge from what the orator says there was no difficulty in proving Archias' title; and Cicero accordingly devoted the larger part of this short speech to the praise of poetry and of learned men. It seems likely that when he published this oration he left out all the more formal part and elaborated the introduction and the peroration as a kind of rhetorical exercise.

Halm says that the poet gained his cause, but I know no ancient writer who says so. However the cause has preserved Archias' name. His works are lost, but perhaps it is no loss to us. He wrote a poem on the Cimbrian war of C. Marius; and another poem on the Mithridatic war and his patron L. Lucullus. He wrote something, perhaps an Epigram, on the actor Q. Roscius, who, as the story goes, when he was a child and lying in his cradle, was found by his nurse encircled in the folds of a serpent. This memorable incident, which was interpreted as a sign of his future fame, was commemorated by the artist Pasiteles in silver and by Archias in some verses (De Divin. i. c. 36). There are several Epigrams in the Anthology which bear the name of Archias, but none of them is assigned to the poet of Antioch.

Some critics have disputed the genuineness of this speech; but there is no evidence either external or internal against its being the work of Cicero. Tacitus, or the author of the De Oratoribus (c. 37), speaks of an oration for Licinius Archias by Cicero, and he remarks that it is not one of those on which the oratorical reputation of Cicero is founded.

I have used for this oration the notes of Halm in his edition of 1853; and the edition of this oration by Baiter in the second edition of Orelli's Cicero.

The following are the MSS. to which Baiter refers:—

G = Cod. Gemblacensis, nunc Bruxellensis, num. 5352, membr. sec. xii. (collated by Baiter).

E = Cod. Erfurtensis, nunc Berolinensis.

P = Lectiones a P. Pithoeo ad margines exempli editionis Lambinianae a. 1581, quod extat in bibliotheca Heidelbergensi, adscriptae.

S = Scholiastes Ambrosianus ap. Aug. Maium Class. Auctt. e Vatic. Codd. edit. t. ii.

B = Cod. Barberinus prior Garatonii.

A = Editio Ascensiana prima a. 1511.

M. TULLII CICERONIS

PRO

A. LICINIO ARCHIA POETA

ORATIO

AD JUDICES.

ARGUMENTUM[1].

A. Licinius Archias se studiis poeticis dedidit, et adprime, ut videbatur, excelluit in hoc genere litterarum. Amicitia igitur etiam viris inlustribus familiariter copulatus est, ut ipse M. Tullius in orationis hujus narratione *confirmat. Interim satis longo intervallo quum esset cum L. Lucullo in Siciliam profectus, et quum ex ea provincia cum eodem L. Lucullo regre*deretur, Heracleam venit, quae tunc erat civitas foederata, et ascribtus est in ordinem Heracliensium civis. Tunc Silvanus et Carbo cos. legem tulerunt, ut omnes, qui essent ex foederatis populis, civitatem Romanam consequerentur: si modo illo tempore, quo lex lata esset, domicilium in Italia haberent, et intra diem sexagensimum professi apud praetorem fuissent. Quae quum Licinio Archiae ad obtinendum jus civitatis Romanae argumenta deessent, quoniam neque tabulis Heracliensium probare poterat asdcribtum se in ordinem civium; quippe tabularium civitatis illius exarserat bello sociali, nec bona sua in censum detulerat; reus factus *est* lege Papia, quae lata fuerat ad eos coercendos, qui temere et inlicite civitatem Romanam usurpassent. Fit ergo quasi conjecturalis, an adscribtus sit in ordinem Heracliensium, et an fecerit omnia, quae is facere debuerit, qui esset e numero foederatorum. Et deficitur quidem multis probationibus; testimonio tamen Heracliensium et vel maxime, quibus tota occupatur oratio, poeticae facultatis et doctrinae jucundissimae gratia nititur. Est etiam, omissa conjectura, disceptatio per ipsam qualitatem personae, *ut* civis Romanus debeat adoptari, etiamsi in praeteritum non sit adscribtus[2].

I. Si quid est in me ingenii, judices, quod sentio quam sit exiguum, aut si qua exercitatio dicendi, in qua me non infitior mediocriter esse versatum, aut si hujusce rei ratio aliqua ab optima-

1. *Si quid*] If any man doubts who wrote this exordium, he has read Cicero to little purpose. And if he wrote the exordium, he probably wrote the rest (see Introduction). Quintilian (xi. 1, 19; 3, 97) quotes the words 'Si quid . . . exiguum.'

hujusce rei ratio] 'If I possess any principles of eloquence:' he means the art (ars) or one of those things which compose the 'facultas oratoris,' or oratorical power: "facultas oratoris consummatur natura, arte, exercitatione" (Quiutil. iii. 5, 1). In his work On the Orator Cicero discusses the question whether oratorical power lies

[1] This was published by Mai. He supposes it to be by Asconius Pedianus. The parts in italics were supplied by Mai.

[2] The MS. has 'adsocius.'

rum artium studiis ac disciplina profecta, a qua ego nullum confiteor aetatis meae tempus abhorruisse, earum rerum omnium vel in primis hic A. Licinius fructum a me repetere prope suo jure debet. Nam quoad longissime potest mens mea respicere spatium praeteriti temporis et pueritiae memoriam recordari ultimam, inde usque repetens hunc video mihi principem et ad suscipiendam et ad ingrediendam rationem horum studiorum exstitisse. Quod si haec vox hujus hortatu praeceptisque conformata nonnullis aliquando saluti fuit, a quo id accepimus quo ceteris opitulari et alios servare possemus, huic profecto ipsi quantum est situm in nobis et opem et salutem ferre debemus. Ac ne quis a nobis hoc ita dici forte miretur, quod alia quaedam in hoc facultas sit ingenii neque haec dicendi ratio aut disciplina, ne nos quidem huic uni studio penitus umquam dediti fuimus. Etenim omnes artes quae ad humanitatem pertinent

in art (ars) or in natural talent (i. 23, &c.). It lies in both, but without nature a man will not get much from art.

hic A. Licinius] He gives him a Roman name. The praenomen Aulus does not belong to any of the Luculli, so far as we know. There are many examples of Greeks adopting the Gentile name of their patrons (Vol. I. Verr. ii. 4. c. 17).

prope suo jure] 'Almost as his own by right.' (Vol. I. Verr. ii. 5. c. 1.) The 'fructus' of Cicero's talent, if he had any, of his practice as a speaker, and of his oratorical principles or art, was his 'oratoria facultas,' his oratorical power; and as Archias had helped to sow the seeds, he had almost a right to claim the fruits.

pueritiae memoriam] Archias came to Rome in B.C. 102, when Cicero was four years old. Cicero came to Rome before B.C. 91. He does not speak of Archias as his master in rhetoric; but he was indebted to him for something, example, exhortation, and advice at least.

ceteris . . . alios] 'Help every body else, and rescue some.' For 'alios' is simply 'others,' not Archias; and 'ceteri' are 'all not including Archias.'

possemus.] 'possumus,' G. E. and Halm. Either may do, but the meaning is not the same. Baiter has 'possemus.'

huic uni] Cicero alludes to his own poetical writings. He begun with poetry, as many clever boys do, and ended with prose (Plutarch, Cicero, c. 2.) The MSS. have 'huic cuncti' or 'cunti,' which has long since been changed to 'huic uni.' 'Puteanus, huicce uni' (Baiter). If 'huic uni' is not the true reading, it makes sense at least; and 'cuncti' does not, for we cannot accept Manutius' explanation that 'cuncti' is the same as 'toti.' 'Cuncti' is 'omnes conjuncti,' as Festus says. (See Vol. I. Divin. c. 1.)

humanitatem] Halm quotes another passage of Cicero, in which he expresses the same clear and enlarged view of the connexion, the kinship of all the arts and sciences. It is Plato's saying however, but not the worse for that: "Est etiam illa Platonis vera . . . vox, Omnem doctrinam harum ingenuarum et humanarum artium uno quodam societatis vinculo contineri" (De Or. iii. c. 6.) The remark may be useful to those very superficial people, who cannot praise their own pursuits without decrying those of others.

The critics dispute how much is expressed by 'humanitas' in this passage. Manutius limits it to oratory, poetry, history; or perhaps he names these only as examples. But 'humanitas' comprises all that characterizes man as a rational animal. 'Humanitas' came from the Greeks, says Cicero to his brother (Ad Q. Fr. i. 1. c. 9): it was the fruit of Grecian civility. The arts and philosophy of Greece humanized Rome; and the 'humanitas' of Greece and Rome rescued modern Europe from its savage state. We still cling to this 'humanitas' as our only hope and our safety against a fresh age of barbarism. We must adopt the word 'humanity' in this its wide sense, as we have it in a narrower sense. The Romans used it both ways, and as our language is now Roman, we must adopt in its enlarged sense the word which shows our obligation to the Romans, and expresses something for which we want an expression.

habent quoddam commune vinculum et quasi cognatione quadam inter se continentur. II. Sed ne cui vestrum mirum esse videatur, me in quaestione legitima et in judicio publico, quum res agatur apud praetorem populi Romani, lectissimum virum, et apud severissimos judices, tanto conventu hominum ac frequentia, hoc uti genere dicendi quod non modo a consuetudine judiciorum, verum etiam a forensi sermone abhorreat, quaeso a vobis, ut in hac caussa mihi detis hanc veniam accommodatam huic reo, vobis quemadmodum spero non molestam, ut me pro summo poeta atque eruditissimo homine dicentem, hoc concursu hominum litteratissimorum, hac vestra humanitate, hoc denique praetore exercente judicium, patiamini de studiis humanitatis ac litterarum paullo loqui liberius, et in ejusmodi persona quae propter otium ac studium minime in judiciis periculisque tractata est, uti prope novo quodam et inusitato genere dicendi. Quod si mihi a vobis tribui concedique sentiam, perficiam profecto ut hunc A. Licinium non modo non segregandum, quum sit civis, a numero civium, verum etiam, si non esset, putetis asciscendum fuisse.

III. Nam ut primum ex pueris excessit Archias atque ab iis artibus quibus aetas puerilis ad humanitatem informari solet, se ad scribendi studium contulit, primum Antiochiae, nam ibi natus est loco nobili, celebri quondam urbe et copiosa atque eruditissimis

2. *quaestione legitima*] 'In a question founded on a Lex' (Vol. I. Verr. Act. i. c. 11, note on 'legitimum tempus'). The prosecution against Archias was founded on the Lex Papia, and it was matter for what the Romans called a Judicium Publicum. The Praetor was Cicero's brother Quintus, as the Scholiast says.

hoc concursu] The use of the pronoun 'hic' and the repetition of it here and before express what we cannot express by any single pronoun, and a translator must do the best that he can. Cicero speaks of the great concourse of men of letters; of the great humanity (in the Roman sense) of the judices, of the character of the praetor, who was himself a man of letters, a poet, and an historical writer, and afterwards a soldier too, for he served under Caesar in Gallia, and distinguished himself.

in ejusmodi persona] See Pro Murena, c. 3, note on 'persona.' Archias' retired life (otium) and literary pursuits (studium) gave him a character, a personality (persona), which had no experience of the courts and of dangers.

3. *Nam ut primum*] 'Nam' refers to what precedes, 'Quod si a vobis,' and it may be translated 'Now as soon as.'—'ex pueris:' like the Greek ἐκ παιδων ἐξελθεῖν. Terence has (Andria, i 1, 24),

"Nam is postquam excessit ex ephebis."

Antiochiae,] Antiochia, now Antakieh, on the river Orontes in Syria, one of the foundations of Seleucus Nicator. Cicero informs us that Antioch was a place of learning, but its literary fame is otherwise little known. One of the names to which it owes some celebrity at a later time is the rhetorician Libanius, who presided over the school of Antioch in the time of Julian in the fourth century. There is some notice of this late school of Antioch in an article in the Quarterly Journal of Education, Vol. I. 1831.

loco nobili,] 'Of a noble or honourable family,' or 'honestis parentibus,' as Manutius and others correctly explain it. "Natus haud obscuro loco" (Sallust, Cat. c. 24); "si quem infimo loco natum, nullo splendore vitae" (Pro Flacco, c. 11).

hominibus liberalissimisque studiis affluenti, celeriter antecellere omnibus ingenii gloria contigit. Post in ceteris Asiae partibus cunctaque Graecia sic ejus adventus celebrabantur, ut famam ingenii exspectatio hominis, exspectationem ipsius adventus admiratioque superaret. Erat Italia tum plena Graecarum artium ac disciplinarum, studiaque haec et in Latio vehementius tum colebantur quam nunc iisdem in oppidis, et hic Romae propter tranquillitatem rei publicae non negligebantur. Itaque hunc et Tarentini et Regini et Neapolitani civitate ceterisque praemiis donarunt; et omnes qui aliquid de ingeniis poterant judicare cognitione atque hospitio dignum existimarunt. Hac tanta celebritate famae quum esset jam absentibus notus, Romam venit Mario consule et Catulo. Nactus est primum consules eos, quorum alter res ad scribendum

antecellere ... contigit.] Halm remarks that this construction with the infinitive is only found in this passage of Cicero, though it is usual in the poets, and in the prose writers after the first century of the Christian aera.

adventus] There is a reading 'celebrantur.' See the note on 'adventus,' Vol. I. Verr. ii. 1. c. 19; and Vol. II. De Imp. Cn. Pompeii, c. 5; De Lege Agraria, i. 3. 'Adventus' is used in this sense both in the singular and in the plural.

Italia] Italia, South Italy, is opposed to Latium, the country of the Latin tongue. Archias came to Italy before the Marsic war which desolated the country; and the Marsic war was followed by the wars of Marius and Sulla. From the death of C. Gracchus B.C. 121, to the commencement of the Marsic war B.C. 90, Italy was quiet; and Rome was as quiet as such a place could be. The invasion of the Cimbri and Teutones, which threatened Italy, was repelled by Marius and Catulus B.C. 102, 101.

Tarentini] Tarentum, a Greek town on the south coast of Italy, had received a Romana colonia in B.C. 123 or 122 (Velleius, i. 15). Cicero seems to be speaking of the Greek population only; he takes no notice of the Roman colony. Rhegium or Regium (Reggio) at the extremity of Italy, and Neapolis (Napoli) were Civitates Foederatae, and as such preserved their internal constitution. It was a principle among the Greek states that a man might be a citizen of more states than one, as Cicero says in the oration Pro Balbo, c. 12.

G. E. S. A. write Regini. One sees no reason for Rhegini, but it is the common way of writing the word in our printed books.

alter ... alter] Marius did the deeds which furnished Archias with materials, but he was a rough soldier and had no taste for letters. Plutarch (Marius, c. 2): "It is stated that Marius never studied Greek literature, and never availed himself of the Greek language for any serious purpose, for he said it was ridiculous to study a literature the teachers of which were the slaves of others; and after his second triumph, when he exhibited Greek plays (shows) on the occasion of the dedication of a certain temple, though he came to the theatre, he only sat down for a moment and then went away." Marius' colleague Q. Lutatius Catulus was both a soldier and a man of letters (Plutarch, Marius, c. 25; Brutus, c. 35). Cicero commends the purity of his Latin style. He wrote a book on his consulship and his campaigns, which was probably of the character of Commentarii or Mémoires pour servir. He wrote verses too. Cicero (De Natura Deorum i. 28) quotes an Epigram by Catulus on the actor Roscius; and Gellius (xix. 9) quotes some verses by Catulus, which are perhaps a translation from the Greek, certainly not elegant. Catulus is mentioned in the oration Pro C. Rabirio, c. 7. He perished B.C. 87 in Marius' proscription. His pitiless colleague said to those who interceded for Catulus, 'He must die,' and accordingly Catulus shut himself up in a room, and lighting some charcoal suffocated himself (Plutarch, Marius, c. 44). His son, who is mentioned in this chapter, was consul in B.C. 78, censor in B.C. 65, and one of the leaders of the Optimates.

maximas, alter quum res gestas, tum etiam studium atque aures adhibere posset. Statim Luculli, quum praetextatus etiam tum Archias esset, eum domum suam receperunt. Sed jam hoc non solum ingenii ac litterarum, verum etiam naturae atque virtutis, ut domus quae hujus adolescentiae prima fuerit, eadem esset familiarissima senectuti. Erat temporibus illis jucundus Q. Metello illi Numidico et ejus Pio filio; audiebatur a M. Aemilio; vivebat cum Q. Catulo et patre et filio; a L. Crasso colebatur; Lucullos vero

praetextatus] Halm considers this to be a cunning misrepresentation, for 'praetextatus' was only said of a Roman youth. It was a misrepresentation that would deceive nobody. The chief part of the misrepresentation was probably in the man's age, for a 'puer praetextatus' under fourteen, or sixteen at most, could hardly have made such a sensation all over Asia, Greece, and Magna Graecia as Cicero describes. Manutius remarks Cicero's inconsistency in speaking of Archias as a 'praetextatus' when he arrived at Rome, and also speaking of him as passing from boy's estate at Antioch, and doing a great many things before he got to Rome. He must have been a wonderful youth, such as we have sometimes heard and read of, and yet he was only an ordinary man.

Manutius supposes the Luculli to be Lucius and Marcus, who were afterwards the patroni of Archias. They were boys (see Introduction) when Archias came to Rome; but they were now men of mature age, and the orator may purposely have neglected the proprieties of time.

Sed jam hoc] Halm. The MSS. have 'Sed etiam hoc,' which Baiter retains and marks thus (†). There is no difficulty about the omission of 'est.' A difficulty has been made about 'fuerit,' and it has been proposed to alter it into 'patuerit.' Halm explains 'prima fuerit, scil. familiaris,' which is to be got out of 'familiarissima.' He refers to a like passage in Livy (37. c. 41): "quae nihil admodum," &c.; and to a passage in Cicero's Laelius, c. 11: "et minime tunc quidem Caius frater, idem nunc acerrimus," where his explanation is perhaps right; but I am not sure. 'Fuerit' is the reading of G. E. A. Nine Lagomarsini MSS. have 'fuit,' which Baiter accepts. Madvig proposes 'patuit.'

Metellus] Numidicus was consul B.C. 109. in which year and in B.C. 108 he conducted the campaign against Jugurtha and had a triumph. He was banished by Marius' intrigues (Plutarch, Marius, c. 28, &c.). His son gained the name of Pius for his exertions in restoring his father from exile B.C. 99 (Plutarch, Marius, c. 31; Velleius, ii. 15). Pius conducted the war against Sertorius in Spain B.C. 76. The position of the words 'ejus Pio filio' is common in Cicero, as Halm shows by examples. Compare Pro Cluentio, c. 8: "Aurium et ejus L. filium."

audiebatur] Hence the Roman expression to be an 'auditor,' to attend a man's instruction, as young men often attended a jurist. Aemilius is M. Aemilius Scaurus, consul B.C. 115, and 108; and an orator.

L. Crasso] This is the great orator Crassus, the contemporary of the orator M. Antonius (Vol. I. Divin. c. 8). Crassus died in B.C. 91.

Lucullos] It is supposed by some critics that Cicero means the father L. Lucullus, the propraetor of Sicily in B.C. 102. But see the Introduction.

His son Lucius, who conducted the war against Mithridates, was born before B.C. 106, but the year of his birth is not certain. He served in the Marsic war B.C. 90, but that fact only shows that he must have been then at least sixteen or seventeen. He was consul in B.C. 74, at which time he ought to have been forty-two (Vol II. De Leg. Agr. ii. c. 2). Accordingly he may have been born in B C. 116 or 117. The date of the birth of Marcus Lucullus is not known. He was Curule Aedile in B.C. 79 with his elder brother Lucius, when he ought to have been thirty-seven years old. Cicero does not speak on this occasion with much accuracy. He says 'Lucullos,' meaning all the Luculli. The Luculli, who were men of note when this speech was delivered, were Lucius and Marcus, the sons of the praetor (B.C. 102) L. Lucullus, and he may mean them only, as they were the only Luculli whom the mention of the name would suggest to the hearers at the time when this speech was delivered.

et Drusum et Octavios et Catonem et totam Hortensiorum domum devinctam consuetudine quum teneret, afficiebatur summo honore, quod eum non solum colebant, qui aliquid percipere atque audire studebant, verum etiam si qui forte simulabant. IV. Interim satis longo intervallo quum esset cum L. Lucullo in Siciliam profectus,

Drusum] M. Livius Drusus, tr. pl who died in B.C. 91. There were several Octavii at the time of which Cicero is speaking. Cn. Octavius was consul with Cinna B.C. 87. He had a son Lucius who was consul B.C. 75.

Cato may be the father of Cato Uticensis. Of the noble family of the Hortensii the orator (consul B.C. 69) was the most distinguished.

4. *satis longo intervallo*] Baiter and Halm have 'cum M. Lucullo,' the correction of Schütz. Stephanus altered 'Siciliam' into 'Ciliciam,' and Weiske, Garatoni, and other critics have approved of the alteration. Drumann supposes L. Lucullus to be the father.

It has been already said (Introduction) that Archias came to Rome in B.C. 102, but L. Lucullus the father went to Sicily in that year, and Archias could not have accompanied him unless he was at Rome in that year before Lucius left Rome. But it is very unlikely that he went straightway to Sicily with Lucullus. It was by living in intimacy with the Luculli and others that he gained general consideration (afficiebatur summo honore). Again Cicero says 'satis longo intervallo.' We do not know how much this means, but it has no meaning at all, if Archias went to Sicily in B.C. 102. Drumann observes that Cicero speaks obscurely in order to spare L. and M. Luculli, who would not wish to have their father's ill luck brought to mind in B.C. 62. Drumann also argues that 'decedere ex provincia' is said of governors who leave a province after the term of their government has expired, and he adds that L. Lucullus, the son, was never governor of Sicily, nor his brother Marcus. The answer is that 'decedere' is not always so strictly used; nor is it so used here, for Cicero says when Archias 'cum eodem Lucullo decederet.' If he meant to say that Lucullus was leaving the province, he would have said so. Again, the plain meaning of the words is, that Archias on leaving Sicily with Lucullus went to Heraclea. Drumann, after a German fashion of dealing with evidence, says: "A tolerable long space of time did not elapse between Archias' arrival in Rome and his entry on the roll of the citizens of Heraclea, and people (man) did not get to Heraclea on the way back from Sicily." This is childish trifling, and a perversion of the plain meaning. Drumann contradicts Cicero, who may be lying for what I know, but Drumann cannot prove that Cicero is lying. A man, or several men, if they liked, might go to Heraclea, when they got out of Sicily. The narrative of Cicero means that Archias spent some time in Rome, and then 'a considerable time' (satis longo intervallo) after his arrival at Rome he went to Sicily with L. Lucullus. If Lucullus went to Sicily in some public employment, Cicero would have said so, for that would have raised the reputation of Archias. Halm also says of the word 'decederet,' "which form of expression was only applied to magistrates or official personages," that "Cicero, as Stürenburg has well remarked, has used the more important form of expression with rhetorical tact, in order to set the journey of Lucullus in a brighter light," Lucullus being, as he supposes, the son, M. Lucullus, for which we have only Schütz's authority, who knew no more of the matter than we do. What rhetorical tact, to use a word improperly in order to make the Judices believe what they knew not to be true! for I suppose, according to this explanation, they were to believe that M. Lucullus was governor of Sicily, though he never had been; or if this is not meant, what is the meaning of setting the journey in a brighter light? Halm (see Introd.) says that it is probable that this journey of M. Lucullus was connected with the prosecution which L. and M. Lucullus conducted against the augur Servilius, by whom their father Lucullus was prosecuted for maladministration in Sicily, and being convicted went into exile. Plutarch (Lucullus, c. 1) mentions the prosecution of Servilius. But why should M. Lucullus go to Sicily on the occasion of the prosecution of Servilius? What was he to find there? If he had gone to get evidence for his father when he was prosecuted, there might be some meaning in the journey. But this is the way that men write history, as they call it. They invent facts and indulge in

et quum ex ea provincia cum eodem Lucullo decederet, venit Heracleam. Quae quum esset civitas aequissimo jure ac foedere, ascribi se in eam civitatem voluit; idque quum ipse per se dignus putaretur, tum auctoritate et gratia Luculli ab Heracleensibus impetravit. Data est civitas Silvani lege et Carbonis, SI QUI FOEDERATIS CIVITATIBUS ASCRIPTI FUISSENT, SI TUM QUUM LEX FEREBATUR IN ITALIA DOMICILIUM HABUISSENT, ET SI SEXAGINTA DIEBUS APUD PRAETOREM ESSENT PROFESSI. Quum hic domicilium Romae

reflections. "The historians of the middle class, who are the most numerous, pervert us all. They aim to chew the morsels for us; they make it a law to themselves to judge of, and consequently to bend the history to their own fancy; for while the judgment leans on one side, the writer cannot avoid turning and winding his narrative according to that bias." (Montaigne, Essays, ii. c. 10.)

In c. 3 Cicero only names the Luculli. He purposely does not name the father. In B.C. 62, when this oration was delivered, we may assume that Lucullus the father was dead. L. Lucullus the son was now in Rome enjoying the wealth that he got in Asia. It is very natural that the orator should speak of him or his brother without any description: but it is very unlikely that he would speak of the praetor of forty years past without distinguishing him from his sons who were then alive, and in Rome.

Heraclea] The foedus between Heraclea and Rome dated from the time of King Pyrrhus (Pro Balbo, c. 22). "The father of L. Lucullus probably lived at Heraclea in exile," says Halm. (See the Introduction.)

Data est civitas] Before the Social war broke out, Rome was the ruling state of Italy. She had her Roman colonies and her Latin colonies in all parts of the Peninsula. The rest of Italy was filled with states dependent on Rome: they managed their own affairs, but they had to recruit and to feed the armies of Rome. They were comprehended under the name of 'Socii et Latini' (De Am. c. 3) or 'Socii nomenque Latinum.' The Latini formed a dependent class apart from the rest: they were nearest to Rome, and felt her power the most. The rest were Socii or Foederati, whose condition varied according to the terms of their several Foedera.

The Italians claimed in return for their services equality of civil rights. They demanded the Romana civitas, the Suffragium and Honores, or access to the highest places in the Republic. Rome refused, and the Italian states began the Marsic or Social war B.C. 91, 90. In B.C. 90 the Romans by a Lex Julia gave the civitas to those who had not revolted, to all the Latini, and part of the Socii (Pro Balbo, c. 8; Gellius, iv. 4). In the following year, in the consulship of Cn. Pompeius Strabo and L. Porcius Cato, a Lex was enacted, which is generally named the Lex Plautia et Papiria, the Lex which Cicero calls the Lex of Silvanus and Carbo. The names of the two tr. pl. who proposed it were C. Papirius Carbo and M. Plautius Silvanus. We do not know the terms of the Lex, but probably it gave the civitas on certain conditions to all those states which had not got it by the Lex Julia. The part of the Lex which Cicero quotes only applied to Archias' case; and we know nothing of the general provisions of the Lex by which the civitas was given to the several Italian communities.

The meaning of 'ascripti' is collected from this passage, from another in the oration Pro Balbo, c. 12, and from a passage in one of Cicero's letters (Ad Div. xiii. 30): "L. Manlius est Sosis. Is fuit Catinensis: sed est una cum reliquis Neapolitanis civis Romanus factus decurioque Neapoli; erat enim adscriptus in id municipium ante civitatem sociis et Latinis datam."

domicilium] See Vol. I. Verr. ii. c. 3, note. Cicero afterwards gives a definition of 'domicilium:' "is qui tot annis ante civitatem datam sedem omnium rerum ac fortunarum suarum Romae collocavit." This old definition was in substance the definition of the later jurists (Ulpian, Dig. 50. 1. 27. § 1): "si quis negotia sua non in colonia, sed in municipio semper agit, in illo vendit, emit, contrahit, in eo foro, balineo, spectaculis utitur, ibi festos dies celebrat, omnibus denique municipii commodis utitur, nullis coloniarum fruitur, ibi magis habere domicilium quam ubi colendi ruris causa versatur videtur."—'Q. Metellum:' this is Pius, Praetor in B.C. 89, the son of Numidicus.

multos jam annos haberet, professus est apud praetorem, Q. Metellum, familiarissimum suum. Si nihil aliud nisi de civitate ac lege dicimus, nihil dico amplius; caussa dicta est. Quid enim horum infirmari, Grati, potest? Heracleaene esse tum ascriptum negabis? Adest vir summa auctoritate et religione et fide, M. Lucullus, qui se non opinari sed scire, non audivisse sed vidisse, non interfuisse sed egisse dicit. Adsunt Heracleenses legati: nobilissimi homines hujus judicii caussa cum mandatis et cum publico testimonio venerunt, qui hunc ascriptum Heracleensem dicunt. Hic tu tabulas desideras Heracleensium publicas, quas Italico bello incenso tabulario interisse scimus omnes. Est ridiculum ad ea quae habemus nihil dicere, quaerere quae habere non possumus; et de hominum memoria tacere, litterarum memoriam flagitare; et quum habeas amplissimi viri religionem, integerrimi municipii jusjurandum fidemque, ea quae depravari nullo modo possunt repudiare, tabulas quas idem dicis solere corrumpi desiderare. An domicilium Romae non habuit is qui tot annis ante civitatem datam sedem omnium rerum

Heracleaene] Gruter says that a Codex manuscr. has 'Heracliaene,' and he correctly observes that this way of writing is as good as the other. So we may write 'Heraclienses' as Baiter does. The editions before Gruter had 'Heracleaene esse eum;' and 'eum' is wanted. Halm thinks that it should be 'tu eum,' which is probable.

M. Lucullus,] The MSS. reading. Orelli adopted the correction 'L. Lucullus.' I keep the confusion as it is. Halm of course has M. Lucullus, as he has above at the beginning of the chapter; and Baiter also.

opinari] See Pro Murena, c. 30, note; and Pro Fonteio, c. 13, on the word 'arbitrari.'

venerunt,] Mommsen thinks that this word should be erased. I have put a larger stop after 'legati' to stop the objection. Why should we find 'venerunt' in all the MSS., if Cicero did not write it? The legati are here: men of the first rank have come all the way to Rome. What is plainer than that?

ascriptum Heracleensem] Halm quotes Cicero De Nat. Deorum, iii. c. 15: "Romulum nostri aliosque complures, quos quasi novos et adscriptitios cives in caelum receptos putant."

"—— Illum ego lucidas
Inire sedes, ducere nectaris
Succos et adscribi quietis
Ordinibus patiar deorum."
(Horace, Carm. iii. 3.)

"—— ut male sanos
Adscripsit Liber Satyris Faunisque poetas."
(Horace, Ep. i. 19.)

tabulas . . . publicas,] The public registers or records (Pro C. Rabirio, c. 3), and note on Tabularium. This passage proves that Archias was enrolled a citizen of Heraclea before the Marsic war. We know nothing of this fire at Heraclea, but we may collect that the war spread as far as this city, for when Cicero says that the register office was burnt in the war, we conclude that the burning and the war were in some way connected.

quaerere quae . . . non] Baiter says that Cobetus conjectures that 'quaerere' should be 'requirere.' The suggestion is ingenious. But if the critic means that we should put 'requirere' in the text, because he would like it, we must beg to be allowed to reject the proposal.

municipii] It was a Civitas Foederata before the Social war. It had now the Civitas Romana; but Cicero could give it no other name than a Municipium.

An domicilium Romae] Orelli has 'At domicilium Romae non habuit.—Is qui . . . collocavit?' which is the punctuation of Ilgen. If the passage stands thus, the first part is the objection or supposed objection of Gratius; and Cicero answers by a question. 'At non . . . professus?' is the reading of Halm, who compares the passage in the oration Pro Sex. Rosc. Am. c. 1: "Quid ergo

ac fortunarum suarum Romae collocavit? An non est professus? Immo vero iis tabulis professus, quae solae ex illa professione collegioque praetorum obtinent publicarum tabularum auctoritatem. V. Nam quum Appii tabulae negligentius asservatae dicerentur, Gabinii quamdiu incolumis fuit levitas, post damnationem calamitas omnem tabularum fidem resignasset, Metellus, homo sanctissimus modestissimusque omnium, tanta diligentia fuit ut ad L. Lentulum praetorem et ad judices venerit et unius nominis litura se commotum esse dixerit. His igitur tabulis nullam lituram in nomine A. Licinii videtis. Quae quum ita sint, quid est quod de ejus civitate dubitetis, praesertim quum aliis quoque in civitatibus fuerit ascriptus? Etenim quum mediocribus multis et aut nulla aut humili aliqua arte praeditis gratuito civitatem in Graecia homines imper-

audacissimus ego ex omnibus? Minime. At tanto officiosior? Ne istius quidem laudis," &c. Baiter writes: 'At non est professus.' But he does not say on what authority. E. P. have 'An.'

professio] 'Profiteri' is to give in one's name, to make a return, as we call it (Vol. I. Verr. ii. 3. c. 48). 'By virtue of that declaration and the college of Praetores have the authenticity of public records.' The eight praetores formed a collegium in one sense, like the Tribuni (Vol. II. Pro Quintio, c. 7).

5. *Appii*] He was praetor B.C. 89. This Appius was the father of P. Clodius, Cicero's enemy. There is an allusion to him in the oration Pro Domo, c. 32.

Gabinii] P. Gabinius Capito. After his praetorship he was prosecuted for Repetundae and convicted (Vol. II. Divin. c. 20). Halm remarks that the opposition of 'calamitas' and 'incolumis' shows that the word was formed by a popular corruption from 'calamitas' (see Vol. II. Verr. ii. 3, c. 98, note on 'calamitas').

resignasset,] 'Resignare' means to take off the seals, to unseal a testament when a man dies.

> "Adducit febres et testamenta resignat."
> (Horace, Ep. i. 7. 9.)

To take the seals off a thing before the time is a fraudulent act. When the seals are off, the thing may be falsified. Cicero means that the condemnation of Gabinius destroyed his credit, and was the same thing as if you took the seals off a testament or other instrument and left it open to the falsifier. Gabinius was careless while he kept his registers, and after his condemnation we may suppose that they were left nobody knows where, and of course could not be trusted. In such a case the credibility of the registers depended on their safe keeping and their being in proper hands. Cicero does not mean that the 'tabulae' were sealed. Manutius says they were sealed with the praetor's ring.

It does not appear what the facts were about the 'litura' or erasure which Metellus found in a single name. Probably he found in some 'tabulae,' in some registers of citizenship, an erasure of one man's name. He came to P. Lentulus, a praetor, as it is supposed, and to the judices, from which it appears that there was a trial, and he showed that he was very much troubled about the erasure of a single name. This shows the man's care about the accuracy of the registers. This is enough for the purpose. All the rest that the critics say is guess.

Manutius defends the reading 'in nomen,' which he explains 'contra nomen.' 'Nomine' is the reading of B.; 'nomen' of G. E. A. Mommsen conjectures 'nulla in litura nomen.' This is Latin, as in Verr. ii. 2. c. 78: "extremam partem nominis . . . esse in litura."

fuerit ascriptus?] "Not 'sit ascriptus,' because for the present the value of the 'ascriptio' had ceased, since these 'civitates' had become 'municipia'" (Halm).

gratuito] Some would read 'non gravate.' 'Gratuito' is plain: "nullo eorum merito, nulla aut humili arte" (Manutius). We may perhaps infer from this passage that the people of Locri in South Italy had also given Archias the freedom of their city. The critics are not agreed whether Graecia means Greece Proper or Magna Graecia.

tiebant, Reginos credo aut Locrenses aut Neapolitanos aut Tarentinos, quod scenicis artificibus largiri solebant, id huic summa ingenii praedito gloria noluisse. Quid, quum ceteri non modo post civitatem datam, sed etiam post legem Papiam, aliquo modo in eorum municipiorum tabulas irrepserint, hic qui ne utitur quidem illis in quibus est scriptus, quod semper se Heracleensem esse voluit, rejicietur? Census nostros requiris. Scilicet; est enim obscurum proximis censoribus hunc cum clarissimo imperatore L. Lucullo apud exercitum fuisse; superioribus cum eodem quaestore fuisse in Asia; primis [Julio et Crasso] nullam populi partem esse censam. Sed quoniam census non jus civitatis confirmat, ac tantummodo indicat eum qui sit census [ita] se jam tum gessisse pro cive, iis temporibus, quae tu criminaris ne ipsius quidem judicio eum in civium Romanorum jure esse versatum, et testamentum saepe fecit nostris

legem Papiam,] The object of this Lex (B.C. 65) was to drive Peregrini from Rome, as Dion says (37. c. 9). It was proposed by a tr. pl. C. Papius. Cicero (De Off. iii. 11): "Male etiam qui peregrinos urbibus uti prohibent eosque exterminant, ut Pennus apud patres nostros, Papius nuper. Nam esse pro cive qui civis non sit rectum est non licere; quam tulerunt legem sapientissimi consules Crassus et Scaevola: usu vero urbis prohibere peregrinos sane inhumanum est." This was the Lex under which Archias was prosecuted, as it is stated in the Schol. Bob. p. 354, Orelli.

ne utitur quidem illis] Cicero never attempts to show that Archias was registered in any other state than Heraclea. He says that he was, but he gives no proof of it. He simply asks if it was probable that Regium and other towns refused him that which they were accustomed to give to actors. Here he says that even after the enactment of the Lex Papia, the rest, I do not know who they are, got their names entered surreptitiously on the lists of those municipia; by which he means all those places that he has mentioned, except Heraclea. Archias, he says, did not make any use of the evidence of these registers, because he always chose to consider himself as belonging to Heraclea; and Halm finds three good reasons for this. But as the registers of Heraclea were burnt, and we are not told that the others were, we cannot understand why Archias should not have used their evidence. Indeed Cicero says it was worth nothing, because their registers were falsified; and they must have been falsified in dates as well as in names, for the Lex of Silvanus and Carbo only gave the civitas to those who were registered before the Lex was passed. For want of exact knowledge of facts, which Cicero very often does not give us, we cannot tell what to make of his argument. Archias did not make use of these registers, on which his name was entered, as Cicero says, and because he was resolved to pass for a citizen of Heraclea. He may have given in his name to Metellus as a citizen of Heraclea only, and we must conclude from all that Cicero says that he had done so. Yet we are not told that this prevented him from proving his title to the Roman civitas from other registers. He simply did not choose to refer to those registers, because he would pass for a citizen of Heraclea: and in the same sentence we are told that these registers were falsified. There is no sense in this; and if the orator wrote it so, he is inexcusable.

Census nostros] See the Introduction. The punctuation is not quite certain. Some editions have 'Census nostros requiris scilicet. Is enim.' Halm refers to Cicero Ad Q. Fr. i. 3. 1: "Ego tibi irascerer? tibi ego possem irasci? Scilicet; tu enim;" where 'Scilicet' cannot belong to 'irasci.' 'Scilicet' implies however a repetition of the verb to which it refers.—'Julio et Crasso:' the names of the censors of B.C. 89. Manutius supposes them to be a gloss; and it is probable that they are.

quae tu . . . eum in civium] 'Quem tu . . . judicio in civium,' Halm, and Baiter on the authority of Cod. Oxoniensis C. G. E. have the reading in the text. A. has 'quibus' for 'quae.'—'ne ipsius quidem judicio:' because he was not on the censors' lists.

testamentum] The 'testamenti factio'

legibus, et adiit hereditates civium Romanorum, et in beneficiis ad aerarium delatus est a L. Lucullo proconsule. Quaere argumenta, si quae potes; numquam enim hic neque suo neque amicorum judicio revincetur.

VI. Quaeres a nobis, Grati, cur tanto opere hoc homine delectemur. Quia suppeditat nobis ubi et animus ex hoc forensi strepitu reficiatur et aures convicio defessae conquiescant. An tu existimas aut suppetere nobis posse quod quotidie dicamus in tanta varietate rerum, nisi animos nostros doctrina excolamus, aut ferre animos tantam posse contentionem, nisi eos doctrina eadem relaxemus? Ego vero fateor me his studiis esse deditum; ceteros pudeat, si qui ita se litteris abdiderunt, ut nihil possint ex iis neque ad communem

was one of the privileges of a Roman citizen. It was the capacity to make a will or codicil, to be instituted 'heres,' or made a 'legatarius' and to be a witness to a will (Vol. I. Verr. ii. 3. c. 40, note on Commercium). Halm says that 'saepe' is a rhetorical exaggeration; but that there was a foundation for it in the fact of Archias having accompanied Lucullus in his campaigns. I suppose he means that as his life was insecure, or he might chance to lose it, he was every now and then making his last will, like Caesar's men when they were going to fight the German king (B. G. i. 39). Klotz observes that Cicero's 'saepe' means no more than once or twice. This talk about wills made in the campaign seems to be the suggestion of Ballhorn-Rosen, which Klotz calls an unlucky one, and so it is. Rosen supposes that the 'testamenta in procinctu' were meant, the testaments made in presence of the enemy. Klotz correctly remarks that they were now out of fashion. (See the note in Long's Caesar, B. G. i. 39.)

in beneficiis] His name was returned by L. Lucullus to the treasury (aerarium) among those who deserved some reward for their services, or among those whom he had rewarded in some way. Cicero (Ad Fam. v. 20) has a passage on the 'in beneficiis' which is instructive: "quod scribis de beneficiis, scito a me et tribunos militares et praefectos et contubernales dumtaxat meos delatos esse. In quo quidem me ratio fefellit: liberum enim mihi tempus ad eos deferendos existimabam dari; postea certior sum factus triginta diebus deferri necesse esse quibus rationes detulissem."

6. *convicio*] This word here means 'noise,' the clamour 'causidicorum,' the bawling of the noisy word-splitters. Graevius quotes a passage of Phaedrus (i. 2):

"Clamorem ranae sustulere ad sidera.
Convicio permotus Juppiter."

Halm writes 'convitio' here and elsewhere; but Baiter does not.

litteris] The orator has now got a subject that he likes: he is talking of himself. He could however talk well, and say something worth hearing, which is not always the case with great talkers. "Let the men be ashamed who have so buried themselves in letters that they are unable to get out of them any profit for common use, or produce any thing before men's eyes and the light of day." Those who are buried in letters cannot be accused now-a-days of sending out nothing; they are continually sending something; but what many do send is most wonderful. This is an intemperance in literature, as Seneca aptly calls it (Ep. 106), as bad in its kind as any other intemperance. It fills the world with useless books. But the world has its revenge. It does not read them.

Cicero was always working, and he has produced something for men to look at, something that will bear the light. His vanity has let us know more about him than we should have known, if he had been a modest man. He says truly of himself (Phil. ii. c. 8): "tantum dicam breviter . . . . me nec rei publicae nec amicis unquam defuisse, et tamen omni genere monumentorum meorum perfecisse operis subsecivis, ut meae vigiliae meaeque litterae et juventuti utilitatis et nomini Romano laudis aliquid afferrent."

The Romans also said 'se in litteras abdere,' and 'litteris se involvere;' no bad kind of expression.

afferre fructum neque in aspectum lucemque proferre: me autem quid pudeat qui tot annos ita vivo, judices, ut a nullius umquam me tempore aut commodo aut otium meum abstraxerit aut voluptas avocarit aut denique somnus retardarit? Quare quis tandem me reprehendat aut quis mihi jure succenseat, si quantum ceteris ad suas res obeundas, quantum ad festos dies ludorum celebrandos, quantum ad alias voluptates et ad ipsam requiem animi et corporis conceditur temporum, quantum alii tribuunt tempestivis conviviis, quantum denique alveolo, quantum pilae, tantum mihi egomet ad haec studia recolenda sumpsero? Atque hoc adeo mihi concedendum est magis quod ex his studiis haec quoque crescit oratio et facultas, quae quantacumque in me est numquam amicorum periculis defuit. Quae si cui levior videtur, illa quidem certe quae summa sunt ex quo fonte hauriam sentio. Nam nisi multorum praeceptis multisque litteris mihi ab adolescentia suasissem nihil esse in vita magno opere expetendum nisi laudem atque honestatem, in ea autem persequenda omnes cruciatus corporis, omnia pericula mortis atque exsilii parvi esse ducenda, numquam me pro salute vestra in tot ac tantas dimicationes atque in hos profligatorum hominum quotidianos impetus objecissem. Sed pleni sunt omnes libri, plenae sapientium voces, plena exemplorum vetustas; quae jacerent in tenebris omnia, nisi litterarum lumen accederet. Quam multas

tempore] 'When a man was in a difficulty.' Cicero alludes to men on their trial. 'Commodo' means the help that he gave them in private causes, as the Romans called them.

quantum alii . . . tempestivis] Pro Murena, c. 6, note on 'tempestivus.'

There is a passage in the Phaedrus (276) which Ursini supposes that Cicero may have imitated. No doubt he had read it; and it is worth reading. Socrates says: *ἀλλὰ τοὺς μὲν ἐν γράμμασι κήπους, ὡς ἔοικε, παιδιᾶς χάριν σπερεῖ τε καὶ γράψει, ὅταν γράφῃ, ἑαυτῷ τε ὑπομνήματα θησαυριζόμενος, εἰς τὸ λήθης γῆρας ἐὰν ἵκηται, καὶ παντὶ τῷ ταὐτὸν ἴχνος μετιόντι, ἡσθήσεταί τε αὐτοὺς θεωρῶν φυομένους ἁπαλούς· ὅταν δὲ ἄλλοι παιδιαῖς ἄλλαις χρῶνται, συμποσίοις τε ἄρδοντες αὑτοὺς ἑτέροις τε ὅσα τούτων ἀδελφά, τότ' ἐκεῖνος, ὡς ἔοικεν, ἀντὶ τούτων οἷς λέγω παίζων διάξει.*

alveolo,] Graevius supposes that 'aleae,' which is in most of the MSS. and editions, is an interpretation of 'alveolo.' 'Alveolus' is the 'tabula aleatoria.' G. E. P. have 'alveolo.'

hoc adeo] Some MSS. have 'ideo.' Baiter and Halm have 'eo.'—'crescit:' there is a reading 'censetur,' which is in some editions.

Quae si . . . illa] 'If the study of oratory seems to any man a light thing, there are other things at least which are the highest, and I know from what source I must draw them.' He means the principles of philosophy, which we derive from one source only, the pure intelligence of the Greeks.

hos . . . impetus] He is alluding to Catilina and his crew. Halm, who often asks a question, here asks 'Why did Cicero add *hos?*' I leave others to answer him.

accederet.] E. A. have 'accenderet;' but 'accederet' is right. The words 'Sed pleni' refer to 'nisi multorum praeceptis . . . laudem atque honestatem.' 'Exemplorum' does not depend on 'pleni' and 'plena.' Halm compares 'amicorum . . . dignitate . . . vetustate,' c. 12. 'But all the books are full of this (the praecepta), all the sayings of the wise, all the examples of antiquity; and yet all this would lie in darkness, if the light of letters (science, study) were not applied to it.' Manutius

nobis imagines non solum ad intuendum, verum etiam ad imitandum fortissimorum virorum expressas scriptores et Graeci et Latini reliquerunt; quas ego mihi semper in administranda re publica proponens animum et mentem meam ipsa cogitatione hominum excellentium conformabam.

VII. Quaeret quispiam; quid, illi ipsi summi viri, quorum virtutes litteris proditae sunt, istane doctrina quam tu effers laudibus eruditi fuerunt? Difficile est hoc de omnibus confirmare; sed tamen est certum quid respondeam. Ego multos homines excellenti animo ac virtute fuisse, et sine doctrina naturae ipsius habitu prope divino per se ipsos et moderatos et graves exstitisse fateor: etiam illud adjungo, saepius ad laudem atque virtutem naturam sine doctrina quam sine natura valuisse doctrinam. Atque idem ego hoc contendo, quum ad naturam eximiam atque illustrem accesserit ratio quaedam conformatioque doctrinae, tum illud nescio quid praeclarum ac singulare solere exsistere: ex hoc esse hunc numero quem patres nostri viderunt, divinum hominem, Africanum; ex hoc

quotes a useful passage from Valerius Maximus (viii. 14): "Superior Africanus Ennii poetae effigiem in monumento Corneliae gentis collocari voluit, quod ingenio ejus opera sua illustrata judicaret, non quidem ignarus quam diu Romanum imperium floreret, et Africa Italiae pedibus esset subjecta, totiusque terrarum orbis summum culmen arx Capitolina possideret, eorum extingui memoriam non posse, si tamen illis litterarum quoque lumen accessisset magni aestimans."

imagines . . . expressas] 'How many portraits not to look at only, but also to imitate, of the noblest men have the Greek and Roman writers drawn and left us.' Here our language makes a difficulty, for 'imago' means a solid which represents a human form, and 'exprimere' is a technical word in that sense:

> "Nec magis expressi vultus per aenea signa
> Quam per vatis opus mores animique virorum
> Clarorum apparent."
> (Horace, Ep. ii. 1. 248.)

As we have no word for 'imagines,' for neither bust nor statue will do here, we alter the thing to a portrait and of course we alter the metaphor; but then the translation, that is, the transference is incomplete. A note of Manutius reminds us that Agesilaus would have neither statue nor portrait: he thought that Xenophon's encomium would last longer than either. Tacitus (Agricola, c. 46) has a passage that may be compared with Cicero. After speaking of "imagines quae marmore aut aere finguntur," he says: "forma mentis aeterna, quam tenere et exprimere non per alienam materiam et artem sed tuis ipse moribus possis." See also what Cicero says in c. 12 of this oration.

7. *quid respondeam.*] Halm explains the difference between 'quid' and 'quod respondeam.' I don't believe that there is any. Cobetus, quoted by Baiter, prefers 'est quod respondeam;' and Mommsen has suggested the omission of 'certum.' Baiter suggests 'est certo quod respondeam.' I prefer what Cicero wrote; for I assume that he wrote the text as it stands, because we have evidence that he did, and none that he did not.

animo ac virtute] 'Men of superior understanding and energy' may without any instruction become 'men of well-regulated habits (moderati) and solid character.' The virtues are in 'modus:' they lie between two extremes; hence a man who has the 'modus' is 'moderatus.'

> "Doctrina sed vim promovet insitam,
> Rectique cultus pectora roborant."
> (Horace, Carm. iv. 4)

Africanum;] The younger, 'quem patres nostri viderunt.' C. Laelius was his friend. As to Furius Philus see Pro Murena, c. 31. Cato is the old man, the Censor, who learned

C. Laelium, L. Furium, moderatissimos homines et continentissimos; ex hoc fortissimum virum et illis temporibus doctissimum, M. Catonem illum senem; qui profecto, si nihil ad percipiendam colendamque virtutem litteris adjuvarentur, numquam se ad earum studium contulissent. Quod si non hic tantus fructus ostenderetur, et si ex his studiis delectatio sola peteretur, tamen, ut opinor, hanc animadversionem humanissimam ac liberalissimam judicaretis. Nam ceterae neque temporum sunt neque aetatum omnium neque locorum; at haec studia adolescentiam agunt, senectutem oblectant, secundas res ornant, adversis perfugium ac solatium praebent; delectant domi, non impediunt foris, pernoctant nobiscum, peregrinantur, rusticantur.

VIII. Quod si ipsi haec neque attingere neque sensu nostro gustare possemus, tamen ea mirari deberemus, etiam quum in aliis videremus. Quis nostrum tam animo agresti ac duro fuit ut Roscii morte nuper non commoveretur? qui quum esset senex mortuus, tamen propter excellentem artem ac venustatem videbatur omnino mori non debuisse. Ergo ille corporis motu tantum amorem sibi conciliarat a nobis omnibus, nos animorum incredibiles motus celeritatemque ingeniorum negligemus? Quoties ego hunc Archiam vidi, judices, utar enim vestra benignitate, quoniam me in hoc novo genere dicendi tam diligenter attenditis, quoties ego hunc vidi, quum litteram scripsisset nullam, magnum numerum optimorum versuum de iis ipsis rebus quae tum agerentur, dicere ex tempore, quoties revocatum eandem rem dicere, commutatis verbis atque sententiis.

Greek when he was old (Cicero De Senectute, c. 1).

animadversionem] Baiter and Halm have 'animi remissionem,' a conjecture of Bonamici. 'Animadversio' is the direction of the mind to an object, as in Cicero De Off. i. c. 29: "Ex quibus illud intelligitur — ut ad officii formam revertamur—appetitus omnes contrahendos sedandosque esse, excitandamque animadversionem et diligentiam ut ne quid temere ac fortuito, inconsiderate negligenterque agamus." G. E. P. A. have 'animadversionem.'

adolescentiam agunt,] Halm and others have 'alunt,' a conjecture. Gulielm. proposed 'acuunt.' I can find no use of 'agunt' exactly like this. 'Agunt' is opposed to 'oblectant,' and perhaps it may mean 'give activity to,' 'move.' 'Alunt' makes no opposition to 'oblectant.'

8. *Roscii*] The Comoedus for whom Cicero delivered a speech (Vol. II.). He was just dead. He died in B.C. 62. Roscius excelled in gesture, in the graceful movement of his body. He was so great in his art that any man who excelled in his particular art, was called a Roscius (De Or. i. c. 28). Though his eyes were very much awry (perversissimi), he was considered handsome.

dicere ex tempore,] It was probably by his power of extempore composition that Archias made so great a sensation in the cities which he visited, as a singer does now. Cicero mentions an Antipater of Sidon, who could pour out extempore verses (fundere ex tempore). Cicero explains the power well: "tantum hominis ingeniosi ac memoris valuit exercitatio, ut quum se mente ac voluntate conjecisset in versum verba sequerentur" (De Or. iii. 50) Quintilian (x. 7, 19) sets no great value on the power of improvising. Quintilian uses the adjective 'extemporalis.'

Quae vero accurate cogitateque scripsisset, ea sic vidi probari ut ad veterum scriptorum laudem pervenirent. Hunc ego non diligam, non admirer, non omni ratione defendendum putem? Atque sic a summis hominibus eruditissimisque accepimus, ceterarum rerum studia et doctrina et praeceptis et arte constare; poetam natura ipsa valere et mentis viribus excitari et quasi divino quodam spiritu inflari. Quare suo jure noster ille Ennius sanctos appellat poetas, quod quasi deorum aliquo dono atque munere commendati nobis esse videantur. Sit igitur, judices, sanctum apud vos humanissimos homines hoc poetae nomen, quod nulla umquam barbaria violavit. Saxa et solitudines voci respondent, bestiae saepe immanes cantu flectuntur atque consistunt; nos instituti rebus optimis non poetarum voce moveamur? Homerum Colophonii civem esse dicunt suum, Chii suum vindicant, Salaminii repetunt, Smyrnaei vero suum esse confirmant, itaque etiam delubrum ejus in oppido dedicaverunt: permulti alii praeterea pugnant inter se atque contendunt. IX. Ergo illi alienum quia poeta fuit post mortem etiam expetunt; nos hunc vivum qui et voluntate et legibus noster est repudiabimus? praesertim quum omne olim studium atque omne ingenium contulerit Archias ad populi Romani gloriam laudemque celebrandam. Nam et Cimbricas res adolescens attigit, et ipsi illi C. Mario, qui durior ad haec studia videbatur, jucundus fuit. Neque enim quisquam est tam aversus a Musis qui non mandari versibus aeternum suorum laborum praeconium facile patiatur. Themis-

pervenirent.] 'perveniret,' G. E. P. Baiter, Halm. Cicero talks extravagantly when he says that a Greek of his day attained the merit of the old poets. The thing was impossible. Archias might stand to Homer, as Aristides did to Demosthenes, and the vain rhetorician has left his measure behind him in an oration against Leptines. He too must write a Leptines forsooth; and Voltaire must write an Oedipus.

sanctos] Halm quotes Ovid, Ars Amat. 403, &c.:

> "Quid petitur sacris nisi tantum fama poetis?
> Hoc votum nostri summa laboris habet."

Saxa et solitudines] Manutius thinks that this is something poetical, and there is nothing to find fault with because Cicero is speaking of a poet. But many people will not agree with the learned critic. The allusion to Orpheus and Arion, for I suppose that the orator had them in his mind, is ridiculous. Quintilian quotes these words five times (viii. 3, 75; ix. 4, 44; xi. 1, 34; 3, 84, 167). He says: "Jam sublimius illud Pro Archia, Saxa atque . . . consistunt." He seems to have admired them. He tells us the gesture that is appropriate to these words: "At quum speciosius quid uberiusque dicendum est ut illud, *Saxa atque solitudines voci respondent*, exspatiatur in latus, et ipsa quodammodo se cum gestu fundit oratio." The remarks of Quintilian on action (xi. 3) are useful. Lessing has something on hand action, which as usual shows his exact taste (Hamburgische Dramaturgie, Erster Band, Viertes Stück).—'barbaria:' Cicero has used the word elsewhere.

Homerum] Seven cities contended for the honour of giving birth to the great poet, as the Epigram in Gellius says (xiii. 11), which puts them all in one comprehensive line. Strabo (xiv. 37) mentions the temple of Homer at Smyrna, in which there was a ξόανον or wooden statue of the poet.

toclem illum, summum Athenis virum, dixisse aiunt, quum ex eo quaereretur, quod acroama aut cujus vocem libentissime audiret:— ejus a quo sua virtus optime praedicaretur. Itaque ille Marius item eximie L. Plotium dilexit, cujus ingenio putabat ea quae gesserat posse celebrari. Mithridaticum vero bellum, magnum atque difficile et in multa varietate terra marique versatum, totum ab hoc expressum est; qui libri non modo L. Lucullum, fortissimum et clarissimum virum, verum etiam populi Romani nomen illustrant. Populus enim Romanus aperuit Lucullo imperante Pontum, et regiis quondam opibus et ipsa natura regionis vallatum: populi Romani exercitus eodem duce non maxima manu innumerabiles Armeniorum copias fudit; populi Romani laus est urbem amicissimam Cyzicenorum ejusdem consilio ex omni impetu regio ac totius belli ore ac faucibus ereptam esse atque servatam: nostra semper feretur et praedicabitur L. Lucullo dimicante cum interfectis ducibus depressa hostium classis, et incredibilis apud Tenedum pugna illa navalis; nostra sunt tropaea, nostra monumenta, nostri triumphi. Quae quorum ingeniis efferuntur, ab iis populi Romani fama celebratur. Carus fuit Africano superiori noster Ennius; itaque

9. *acroama*] 'Acroama' is both he who reads any thing that is pleasant to hear, and also that which is read (Manutius). Here Manutius supposes it to mean the thing read; but the word 'acroama' implies both that and the reader, as 'cujus vocem' and 'ejus' show. Halm quotes a letter of Pliny (vi. 31) in which the plural number is used: "interdum acroamata audiebamus, interdum jucundissimis sermonibus nox ducebatur."

L. Plotium] Manutius quotes the passage in Suetonius De Claris Rhetor. c. 2: "de hoc Cicero ad M. Titinium sic refert: Equidem memoria teneo pueris nobis primum Latine docere coepisse L. Plotium quendam, ad quem quum fieret concursus, quod studiosissimus quisque apud eum exerceretur, dolebam mihi idem non licere. Continebar autem doctissimorum hominum auctoritate, qui existimabant Graecis exercitationibus ali melius ingenia posse."

qui libri] 'Qui libri' has no antecedent except what is contained in the sense of the passage 'Mithridaticum vero bellum . . . expressum est.' The relative agrees with the following word, which is a common Latin form.

The historical facts are mentioned in the oration De Imp. Cn. Pompeii, c. 8, and in the oration Pro Murena. The Armenians under Tigranes were defeated near Tigranocerta B.C. 69. Plutarch (Lucullus, c. 27) describes the battle. The relief of Cyzicus is placed here out of its chronological order. The event belongs to B.C. 73, and was the beginning of Lucullus' victorious career in Asia. The fight of Tenedos is mentioned in the oration De Imp. Cn. Pompeii, c. 8, Vol. II.; Pro Murena, c. 15.

Quae quorum] The old reading is 'Quare quorum.' Graevius suggested 'Quae quorum,' and this is the reading of G. E.; but in G. 'vel quia' is written over 'quae.' P. has 'que,' and A. has 'quia.'—'efferuntur,' Madvig and Wunder: 'haec feruntur,' G. E. A., which Baiter supposes to be a corruption of 'ecferuntur.'

Ennius;] This old Epic and dramatic poet was a native of Rudiae in Calabria B.C. 239. It is said that Cato the Censor brought him to Rome. It was usual at Rome to bury the friends and even favourite freedmen in the tombs of their great patroni; as many inscriptions show (Fabretti, p. 148, Inscrip. Antiq. Romae, 1699).

"Ennius emeruit Calabris in montibus ortus
Contiguus poni Scipio magne tibi."
(Ovid, Ars Amat. iii. 409.)

Livy (38. c. 56) mentions three statues on

etiam in sepulcro Scipionum putatur is esse constitutus ex marmore. At iis laudibus certe non solum ipse qui laudatur, sed etiam populi Romani nomen ornatur. In caelum hujus proavus Cato tollitur; magnus honos populi Romani rebus adjungitur. Omnes denique illi Maximi, Marcelli, Fulvii non sine communi omnium nostrum laude decorantur. X. Ergo illum, qui haec fecerat, Rudinum hominem, majores nostri in civitatem receperunt: nos hunc Heracleensem, multis civitatibus expetitum, in hac autem legibus constitutum, de nostra civitate ejiciemus?

Nam si quis minorem gloriae fructum putat ex Graecis versibus percipi quam ex Latinis, vehementer errat; propterea quod Graeca leguntur in omnibus fere gentibus, Latina suis finibus exiguis sane continentur. Quare si res eae quas gessimus orbis terrae regionibus definiuntur, cupere debemus quo manuum nostrarum tela pervenerint, eodem gloriam famamque penetrare, quod quum ipsis populis, de quorum rebus scribitur, haec ampla sunt, tum iis certe, qui de vita gloriae caussa dimicant, hoc maximum et periculorum incitamentum est et laborum. Quam multos scriptores rerum

the monument of the Scipiones outside the Porta Capena, one of which statues was supposed to represent Ennius. The tomb of the Scipios was discovered in 1780; and there is the work of Visconti on it (Opere varie, Vol. I. Milano, 1827).

At iis] The transition, says Halm, is very abrupt. Accordingly Garatoni supposes that something has been lost, or at least he would read 'At ejus annalibus.' Pantagathus proposed 'At ejus laudibus.' The words 'iis laudibus' must be referred to the sentence, 'Quae quorum ingeniis.'

hujus] We may suppose Cato Uticensis to have been present when his great grandfather the Censor was mentioned, or Cicero chooses to make it appear so. Cicero has the usual enumeration of great Roman names: Fabius who baffled Hannibal; Marcellus who took Syracuse; and the Fulvii, Quintus who distinguished himself in the Second Punic war, and M. Fulvius Nobilior, consul B.C. 183, who subjugated Aetolia. The son of Nobilior, himself a man of letters, procured the Roman civitas for Ennius: "Q. Nobiliorem M. F. jam patrio instituto deditum studio litterarum, qui etiam Q. Ennium qui cum patre ejus in Aetolia militaverat, civitate donavit, quum triumvir coloniam deduxisset."

10. *Nam*] Halm proposes a question as usual, What is the thought to be supplied by which the transition is effected? Our word 'Now' seems to express the thing. The orator meets an objection not made, but implied, that Ennius wrote in Latin, Archias in Greek. Cicero often uses this form: 'Nam quid ego de studiis,' &c. (De Am. c. 27); De Officiis, iii. 6: 'Nam illud quidem absurdum;' Verr. ii. 1. c. 34: 'Nam quid Milesiis;' and Verr. ii. 2. c. 66. 'Nam' often introduces something on which there is no intention to dwell.

exiguis] So it was even in Cicero's time. Rome had not yet many colonies out of Italy; but in one century more the Latin language was widely spread, and the works of the younger Pliny could be had in the shops of Lugdunum (Pliny, Ep. ix. 11). Plutarch says of his time: ὡς δοκεῖ μοι περὶ Ῥωμαίων λέγειν, ὧν μὲν λόγῳ νῦν ὁμοῦ τι πάντες ἄνθρωποι χρῶνται (Platonicae Quaestiones, x. 3, Vol. V. ed. Wyttenbach).

de vita gloriae caussa] Here we have again Cicero's glory (Vol. II. Pro C. Rabirio, c. 10, note on Gloria). The Romans of the heroic time fought as a duty. Cicero's glory is the soldier's glory whom Shakspere represents as

"—— seeking the bubble reputation
Even in the cannon's mouth."

scriptores] Alexander had many writers with him, but some of them were soldiers too. Aristobulus and Ptolemaeus are the

suarum magnus ille Alexander secum habuisse dicitur. Atque is tamen, quum in Sigeo ad Achillis tumulum astitisset, O fortunate, inquit, adolescens qui tuae virtutis Homerum praeconem inveneris. Et vere: nam, nisi Ilias illa exstitisset, idem tumulus qui corpus ejus contexerat nomen etiam obruisset. Quid, noster hic Magnus, qui cum virtute fortunam adaequavit, nonne Theophanem Mitylenaeum scriptorem rerum suarum in contione militum civitate donavit; et nostri illi fortes viri, sed rustici ac milites, dulcedine quadam gloriae commoti, quasi participes ejusdem laudis, magno illud clamore approbaverunt? Itaque, credo, si civis Romanus Archias legibus non esset, ut ab aliquo imperatore civitate donaretur perficere non potuit. Sulla, quum Hispanos et Gallos donaret, credo, hunc petentem repudiasset; quem nos in contione vidimus, quum ei libellum malus poeta de populo subjecisset, quod epigramma in eum fecisset tantummodo alternis versibus longiusculis, statim ex iis

authorities on which Arrian has written his Anabasis (Arrian's Introduction to his Anabasis).

Tradition gave the name of Achilles to one of the barrows on the plain of Troy near Sigeum; either because the memory of the great Thessalian hero had been preserved in popular story, or because the Iliad gave immortality to his name. Arrian (Anab. i. 12): Οἱ δὲ ὅτι καὶ τὸν Ἀχιλλέως ἄρα τάφον ἐστεφάνωσε. Ἡφαιστίωνα δὲ λέγουσιν, ὅτι τοῦ Πατρόκλου τὸν τάφον ἐστεφάνωσε, καὶ εὐδαιμόνισεν ἄρα, ὡς ὁ λόγος, Ἀλέξανδρος Ἀχιλλέα, ὅτι Ὁμήρου κήρυκος ἐς τὴν ἔπειτα μνήμην ἔτυχε.

hic Magnus,] Halm's remark is just, that we cannot conclude from the word 'hic' that Magnus was present. Cicero's flattery of this man is very disgusting. He mentions him next to Alexander. Pompeius was a soldier and a man of ability, but men do not expect in their lifetime to be compared with the greatest men of past days. Theophanes, Pompeius' flatterer, was a native of Mitylene in Lesbos. Strabo (xiii. p. 617) has something about him and his intimacy with Pompeius: he calls him ὁ συγγραφεύς. "On arriving at Mitylene Pompeius gave the city its freedom for the sake of Theophanes" (Plutarch, Pompeius, c. 42). Many instances are mentioned of the civitas being given by commanders. Perhaps the practice was irregular at first. It seems to us to be a great assumption to give the civitas. Ennius, as already observed, received the civitas by the favour of Q. Fulvius Nobilior; and it is said that the Populus Romanus sometimes allowed those who were 'triumviri' for the establishment of a Roman colony to give the civitas to Peregrini (Pro Balbo, c. 21). Great men like Pompeius perhaps gave it sometimes without permission.

Hispanos] Cicero (Pro Balbo, c. 22) mentions Aristo of Massilia and some men of Gades as having received the civitas from Sulla.

subjecisset,] The poor poet passed up (subjecit) to Sulla as he was seated on his tribunal the miserable hexameters and pentameters (alternis versibus) which he had made. The tyrant had taste and humour. He liked not the verses, and he paid the poet to write no more. Sulla selling the property of the murdered Romans and paying the poet out of the sale money, is a picture of Rome's degradation and the man's contempt for those whom he had tamed (Plutarch, Sulla, c. 33): "The sales of confiscated property were conducted by him from his tribunal in such an arrogant and tyrannical manner, that his mode of dealing with the produce of the sales was more intolerable than the seizure of the property; he gave away to handsome women, players on the lyre, 'mimi,' and worthless 'libertini,' the lands of whole nations and the revenues of cities." Appian (B. C. i. 101) has recorded something that Sulla said to the people when they were grumbling. It was a warning to keep quiet. Modern tyranny does not do the thing so impudently; but still it does it.

rebus quas tum vendebat jubere ei praemium tribui sub ea conditione, ne quid postea scriberet. Qui sedulitatem mali poetae duxerit aliquo tamen praemio dignam, hujus ingenium et virtutem in scribendo et copiam non expetisset? Quid, a Q. Metello Pio, familiarissimo suo, qui civitate multos donavit, neque per se neque per Lucullos impetravisset? qui praesertim usque eo de suis rebus scribi cuperet ut etiam Cordubae natis poetis pingue quiddam sonantibus atque peregrinum tamen aures suas dederet. XI. Neque enim est hoc dissimulandum, quod obscurari non potest, sed prae nobis ferendum; trahimur omnes laudis studio et optimus quisque maxime gloria ducitur. Ipsi illi philosophi etiam illis libellis, quos de contemnenda gloria scribunt, nomen suum inscribunt: in eo ipso, in quo praedicationem nobilitatemque despiciunt, praedicari de se ac nominari volunt. Decimus quidem Brutus, summus vir et imperator, Attii, amicissimi sui, carminibus templo-

Lucullos] The mother of L. and M. Luculli was a Caecilia, and Metellus was a Caecilius. When Pius was conducting the war in Spain against Sertorius, he gave the civitas to Q. Fabius of Saguntum (Pro Balbo, c. 22). A Roman or Italian population was settled at Corduba (Cordova) on the Baetis (Guadalquiver) in Spain in the second century B.C.; and the Roman language was planted in Spain. These poets of Corduba were however of no great repute, as Cicero says; they were coarse and tasteless men. After Cicero's time Lucan and the two Senecae came from Corduba.

The 'pingue quiddam' is what Cicero (Orator, c. 8) calls "opimum quoddam et tamquam adipale dictionis genus." 'Sonare' is a poetical word, as Horace has it:

"—— atque os
Magna sonaturum." (Sat. i. 4, v. 43.)

These Corduban poets were 'crassa Minerva.' Seneca (Suasor. vii. a.) quoted by Baiter: "Sextilius Hena fuit homo ingeniosus magis quam eruditus, inaequalis poeta et paene quibusdam locis talis quales esse Cicero Cordubenses poetas ait, pingue quiddam sonantes atque peregrinum."

11. *quod obscurari*] 'Which cannot be concealed.' Men cannot conceal their love of fame.

illis libellis,] Baiter and Halm have 'in iis,' which is Madvig's alteration. But Cicero repeats the pronoun, 'Ipsi illi . . . illis libellis.' The preposition 'in' may be wanting. The passage is quoted by Ammianus Marcellinus (xxii. 7), and stands thus in J. Gronovius' edition: "Ipsi illi philosophi etiam in his libris quos de contemnenda gloria scribunt, nomen suum inscribunt, ut in eo ipso quo praedicationem nobilitatemque despiciunt praedicari de se ac se nominari velint." Perhaps 'se' ought to be inserted before 'nominari' in Cicero's text.

The readings in this passage show how the critics handle things. G. E. P. have 'etiam illis;' and A. has 'etiam in illis.' The repetition of 'illi' is emphatic. Baiter quotes Cicero, Tusc. (i. c. 15): "Quid nostri philosophi, nonne in iis (his?) libris ipsis quos scribunt de contemnenda gloria, sua nomina inscribunt?" And this is intended to be evidence for the corruption 'in iis.'

Brutus,] Callaicus or Callaecus, consul in B.C. 138, the conqueror of the warlike Lusitani and Callaeci. Brutus carried the Roman arms to the shores of the ocean, to the north-western extremity of the Spanish peninsula. He had to fight against both men and women, for the women took up arms in defence of their homes against the invader. Brutus was a patron of the tragic poet Attius, and both a soldier and a man of letters (Cicero, Brutus, c. 28). Rome had more men of letters among her generals than any modern nation has. Brutus built public monuments with the spoils of Spain. In the temple that he built to Mars near the Circus Flaminius he placed a seated colossal statue of Mars by Scopas (Pliny, 36, c. 5). But Brutus did not get that from Spain. Perhaps some of his brother plunderers in Greece gave it him.

rum ac monumentorum aditus exornavit suorum. Jam vero ille, qui cum Aetolis Ennio comite bellavit, Fulvius, non dubitavit Martis manubias Musis consecrare. Quare in qua urbe imperatores prope armati poetarum nomen et Musarum delubra coluerunt, in ea non debent togati judices a Musarum honore et a poetarum salute abhorrere.

Atque ut id libentius faciatis, jam me vobis, judices, indicabo, et de meo quodam amore gloriae, nimis acri fortasse, verum tamen honesto, vobis confitebor. Nam quas res nos in consulatu nostro vobiscum simul pro salute hujus [urbis atque] imperii et pro vita civium proque universa re publica gessimus, attigit hic versibus atque inchoavit; quibus auditis, quod mihi magna res et jucunda visa est, hunc ad perficiendum hortatus sum. Nullam enim virtus aliam mercedem laborum periculorumque desiderat praeter hanc laudis et gloriae; qua quidem detracta, judices, quid est quod in hoc tam exiguo vitae curriculo et tam brevi tantis nos in laboribus exerceamus? Certe, si nihil animus praesentiret in posterum, et si quibus regionibus vitae spatium circumscriptum est, eisdem omnes cogitationes terminaret suas, nec tantis se laboribus frangeret, neque tot curis vigiliisque angeretur, neque toties de ipsa vita dimicaret. Nunc insidet quaedam in optimo quoque virtus, quae noctes et dies animum gloriae stimulis concitat atque admonet, non cum

Musis] Fulvius Nobilior, the Aetolian conqueror, took away from Ambracia the picture of the Muses by Zeuxis (Pliny, 35. 10), and placed it in the temple of the Muses which he dedicated at Rome. Zeuxis was the great painter of female beauty, and Fulvius showed his taste and his love of plunder too by carrying to Rome the Muses of Zeuxis. We should like to know how Zeuxis treated the subject of the Muses, for it was one which required an elevation of character, and Zeuxis' style was not the ethic, but the pure representation of beauty of form (Aristotle, Poetic, c. 15).

amore gloriae,] See c. 10, note.

hortatus sum.] There are readings 'adoravi,' 'adortavi,' and 'hortavi.' The Erf. has 'adhortatus sum,' and A. has 'hortatus sum.' Halm has 'adornavi,' which he explains, "I have furnished him with the necessary materials from my commentarii." 'Adornavi' is Klotz's alteration, as Baiter says, who adopts it. Halm does not say where he got it from. It is possible that 'adoravi' may be intended for 'adornavi;' but the MSS. authority seems rather for 'hortatus' or 'adhortatus.'

virtus aliam mercedem] Merit has the praise of men and glory for its reward. Every thing must be paid for. Even 'virtus' must be paid for being 'virtus.' Aristotle makes honour the reward of merit (ἀρετή): and it is given, he says, to the good. He forgot that it is often given to the bad. Such is the nature of human affairs that praise, honour, glory, or whatever else there is, are given to the good and to the bad; not always given to the good as being good, and certainly not given to the bad as bad, but for some other reason. In the nature of things, then, honour and glory are not the reward of goodness at all; and the notion of reward for virtue is a delusion. There is more truth in the saying written in our old copy books, "Virtue is its own reward," and often all that it gets, sometimes all that it can get, in the present state of popular morality.

praesentiret in posterum,] He has the same expression and the same idea in the oration Pro C. Rabirio, c. 10: "optimi et sapientissimi cujusque animus ita praesentit in posterum ut nihil nisi sempiternum spectare videatur."

vitae tempore esse dimittendam commemorationem nominis nostri, sed cum omni posteritate adaequandam. XII. An vero tam parvi animi videamur esse omnes, qui in re publica atque in his vitae periculis laboribusque versamur, ut, quum usque ad extremum spatium nullum tranquillum atque otiosum spiritum duxerimus, nobiscum simul moritura omnia arbitremur? An statuas et imagines, non animorum simulacra sed corporum, studiose multi summi homines reliquerunt, consiliorum relinquere ac virtutum nostrarum effigiem nonne multo malle debemus summis ingeniis expressam et politam? Ego vero omnia quae gerebam jam tum in gerendo spargere me ac disseminare arbitrabar in orbis terrae memoriam sempiternam. Haec vero sive a meo sensu post mortem afutura est, sive, ut sapientissimi homines putaverunt, ad aliquam

dimittendam] Lambinus 'scripturae veteris vestigia secutus' wrote 'dimetiendam.' Halm has 'dimetandam,' which is Bergk's emendation, if we can call that an emendation which is a gross corruption. Baiter keeps 'dimittendam.' It is easy to see how Bergk was misled. Many critics are so clever that they outwit themselves.

12. *statuas et imagines,*] Ursini thinks that this is an imitation of a passage in the Evagoras of Isocrates: Ἐγὼ δέ, ὦ Νικόκλεις, ἡγοῦμαι καλὰ μέν, &c. (c. 30). The sentiment is the same; but it is a 'locus communis.' Tacitus has it also in the last chapter of the Agricola.

ut sapientissimi] The latest expression of Cicero's opinions on the immortality of the soul, for he means that by the words 'ad aliquam mei partem pertinebit,' is in the De Senectute, c. 21, &c. After giving the opinions of Plato and Xenophon, which are those of Socrates on the immortality of the soul, he comes to the Romans (c. 23); and he says that the great men whom he there speaks of, would never have done what they did, if they had not mentally seen 'that posterity or future ages appertained to them' (ad se pertinere); for which I find no translation, and therefore I use a Latin word. He then says, "An censes, ut de me ipso aliquid more senum glorier, me tantos labores diurnos nocturnosque domi militiaeque suscepturum fuisse, si iisdem finibus gloriam meam quibus vitam essem terminaturus?" It is old Cato who is speaking, but Cicero puts the words in his mouth.

This passage and the others that have been referred to mark the character of Cicero's practical philosophy. If his glory was to end with his life, would it not have been better, he says, to spend a life of indolence? The motive for action is men's praise, a word, a breath; praise that shall survive his life, and of which he shall some way be conscious. The utmost he could imagine of another existence was a perpetual consciousness of men's talk about him. He adds a few other things (De Sen. c. 23), but this is the leading idea there, and here it is every thing. A meaner, more pitiable notion cannot be imagined; and we should do wrong to old Cato's memory and the illustrious Romans of Rome's heroic age, to attribute to them the same mean motives that Cicero attributes to himself. The approbation of the good is a motive to action; and the belief that when a man is gone, if he is remembered, he will be honourably remembered, is, as Cicero says, a pleasing thought to him. But a man may labour honestly and well without getting any body's approbation, and he will often get many men's censure and abuse both while he is living and after he is dead. What then remains? Why, to follow Antoninus' advice, and to do what you believe to be right, and not to trouble yourself about what people may say of you either now or after you are dead. Remember how soon you are forgotten. The greatest live only a short time in men's memories; and they are often remembered as much for the bad they have done as for the good.

The Stoics had a higher standard than Cicero. They found a motive for activity and duty in living conformably to Nature, for the constitution of man's Nature shows him what he should do. Accordingly the Stoics could found a morality independent of the belief in a future existence, for they were divided in opinion on the immortality of the soul, but this did not make any dis-

[animi] mei partem pertinebit, nunc quidem certe cogitatione quadam speque delector.

Quare conservate, judices, hominem pudore eo quem amicorum videtis comprobari quum dignitate, tum etiam vetustate; ingenio autem tanto, quantum id convenit existimari, quod summorum hominum ingeniis expetitum esse videatis; caussa vero ejusmodi quae beneficio legis, auctoritate municipii, testimonio Luculli, tabulis Metelli comprobetur. Quae quum ita sint, petimus a vobis, judices, si qua non modo humana, verum etiam divina in tantis ingeniis commendatio debet esse, ut eum qui vos, qui vestros imperatores, qui populi Romani res gestas semper ornavit, qui etiam his recentibus nostris vestrisque domesticis periculis aeternum se testimonium laudis daturum esse profitetur, estque ex eo numero qui semper apud omnes sancti sunt habiti itaque dicti, sic in vestram accipiatis fidem, ut humanitate vestra levatus potius quam acerbitate violatus esse videatur. Quae de caussa pro mea consuetudine breviter simpliciterque dixi, judices, ea confido probata esse omnibus; quae firme a me judicialique consuetudine et de hominis ingenio et communiter de ipsius studio locutus sum, ea, judices, a vobis spero esse in bonam partem accepta; ab eo qui judicium exercet certo scio.

agreement among them as to what a man should do and should not do in this life. Butler, who argues that acquired habits of virtue and self-government may be necessary for the regulation of the particular affections in a future state, adds: "However, though we were not to take in this supposition (of the affections remaining in a future state), but to speak only in general, the thing really comes to the same. For habits of virtue, thus acquired by discipline, are improvements in virtue; and improvement in virtue must be advancement in happiness, if the government of the world be moral" (Analogy, Part I. chap. 5).

pudore] "A man of such honourable character" (Halm). "A character which, as you see, is commended both by the exalted qualities of his friends and the length of their friendship." "*Vetustate* Muretus et Lagom. 18: *venustate* G.E.A." (Baiter.) There is no doubt that 'vetustate' is the true reading. See Pro Flacco, c. 2, note.

divina . . . commendatio] The poet is under the protection of the gods (c. 8): "quasi deorum aliquo dono atque munere commendati."—'his recentibus . . . periculis:' by writing a poem on Cicero's consulship and the conspiracy of Catilina.

estque ex] Madvig, followed by Baiter. 'Quique est ex,' Orelli: 'isque est' appears to be the MSS. reading, or the reading of most of the MSS. — 'itaque dicti:' 'and so called.' Some editions have 'atque dicti.' Halm compares Cicero (Brutus, c. 15): "eloquentem fuisse et ita esse habitum;" and other passages.—'quae firme a me judicialique:' the reading of G. E. P. A., except that P. has 'firmo.' It is probably corrupt, and various attempts have been made to mend it. Stürenburg's 'quae non ferme a mea judicialique consuetudine' is so far good that it contains a negative, which seems to be wanted. Baiter keeps the MSS. reading with a † in front of 'firme.'

INTRODUCTION

TO THE

ORATION FOR L. VALERIUS FLACCUS.

L. Valerius Flaccus was the son of L. Valerius Flaccus, who was the colleague of C. Marius in his sixth consulship (B.C. 100), and assisted in stopping the riots of Saturninus (Pro C. Rabirio, c. 10, Vol. II.). Flaccus, the father, was the man who proposed the Lex Valeria for the relief of debtors at the expense of creditors (Pro Fonteio, c. 1, Vol. II.). In B.C. 86 Flaccus was appointed consul in the place of C. Marius who had just died, and he went at the head of an army into Asia, where he was murdered by C. Flavius Fimbria, his own legatus.

L. Valerius Flaccus the son served as tribunus militum in Cilicia under P. Servilius in B.C. 78, and afterwards in Spain as quaestor under M. Calpurnius Piso (Pro Flacco, c. 3). He also served in Achaia and in Gallia (c. 26). In B.C. 63, the year of Cicero's consulship, he was a praetor, and he and C. Pomptinus arrested the Allobroges at the Pons Mulvius (Introduction to the orations against Catilina). In the next year he was the governor of the Province Asia, in which government he succeeded P. Servilius Globulus, and he was succeeded in B.C. 61 by Q. Cicero, the brother of Marcus. In B.C. 59 Flaccus was prosecuted on the charge of Repetundae, the usual charge against a Roman provincial governor. The prosecutor was Decimus Laelius, and the subscriptores were Lucceius, Appuleius Decianus, and L. Balbus (Schol. Bob. p. 228, ed. Orelli; Pro Flacco, c. 33). Laelius had taken great pains in collecting evidence in Asia against Flaccus, as Cicero had collected evidence in Sicily against Verres (Pro Flacco, c. 5, 6). The Praetor who presided at the trial was T. Vettius, and among the Judices there were L. Lucullus and L. Peducaeus (Pro Flacco, c. 28, 34). The guilt of Flaccus, if he was guilty, was perhaps not the only reason or the chief reason for the prosecution. Flaccus had been active against the accomplices of Catilina in B.C. 63, and the remnants of that faction were ready to attack both Cicero and all his adherents. Cicero therefore had good

grounds for defending Flaccus, and he was assisted by Q. Hortensius, who in his speech exalted the services of Cicero; from which we see that the defence of Flaccus as well as the prosecution was a party affair ("tuus familiaris Hortalus, quam plena manu, quam ingenue, quam ornate nostras laudes in astra sustulit quum de Flacci praetura, et de illo tempore Allobrogum diceret:" Cicero Ad Atticum, ii. 25). Flaccus was acquitted.

The first part of the speech is defective in the MSS. Macrobius (Sat. ii. c. 1) speaks of a certain joke of Cicero by which he saved Flaccus, not being extant in the oration; but this does not prove that Macrobius had a copy of the speech as imperfect as ours, or imperfect at all; for the joke may have been omitted by Cicero himself when he published the oration. The deficiencies of this oration have been partly supplied by the discoveries of A. Mai in the Ambrosian and Vatican Libraries.

This oration shows that these trials at Rome must have cost very large sums of money. A journey was made to Asia by the prosecutor to collect evidence, and both written documents and witnesses were brought from Asia to Rome. The expenses of the witnesses were paid, sometimes perhaps by their own town; and sometimes as it appears by the Roman aerarium. The defendant too brought witnesses from Asia, Greece, and Massilia, to speak to his character; and somebody must have paid their expenses.

The guilt of Flaccus is assumed by many critics. It may be so; but for us it is immaterial whether he was guilty or not. It is more important to see how Cicero defended him. If we knew all the proceedings on this trial, we might form a better judgment of the defendant's guilt and of the orator's merits as an advocate. Hortensius spoke before Cicero, who would not repeat much that Hortensius had said; or he would put it in a different form. We have not the evidence on the trial, and our judgment on the speech of Cicero must be imperfect without it.

The charges against Flaccus were the usual charges against Roman governors; oppression of the provincials generally, and particular acts of violence and fraud, for the purpose of putting money in his pocket. If there was no charge of getting money by illegal means against a governor, he might do a great deal that was very bad without having any fear of being punished for it.

There was a great deal of evidence against Flaccus, and Cicero lays the foundation of his defence in a general affirmation that the Greeks were liars and could not be believed. Indeed he meets most of the evidence, so far as he tells us what it was, by an attempt to show that neither the documents produced nor the witnesses were worthy of credit. And if

he tells the truth, much of the evidence against Flaccus was worth nothing at all.

Flaccus (c. 12—14) was charged with levying money on the Provinciales for the maintenance of a fleet. Cicero admits that he did, and he says that there was a fleet; that Flaccus had authority to raise a fleet, and that it was wanted. It does not seem that there was any very minute inquiry into a governor's expenditure of money raised for such a purpose. If a fleet was wanted and he got money for a fleet, and equipped a fleet, there was nothing to say against him. If there was no fleet, that would seem rather a suspicious matter even to a Roman.

The rest of the oration contains a statement of the charges made against Flaccus, and the answer of the orator, or his remarks on the evidence. His way of dealing with these charges is ingenious. There seems no doubt that what was offered as evidence was enough to prove Flaccus' guilt, if the evidence were accepted and taken as true. Cicero could not disprove many of the charges, for there are many things which cannot be directly disproved. The defendant may sometimes be able to prove facts, which destroy the value of that which the prosecutor proves; but generally it is not the defendant's business to disprove, but the prosecutor's business to prove. All that the defendant can do in many cases is to show that the evidence is not sufficient; and if it would be sufficient, if it were true, that it is not sufficient because the witnesses are unworthy of credit.

The oration contains the answer of Cicero to the charges or the evidence of several Asiatic communities, Acmona, Dorylaeum, Temnos, and Tralles. Besides showing the worthlessness of these several charges and the evidence to support them, witnesses to character were produced from Athens, Lacedaemon, all Achaia, Boeotia, Thessalia, and Massilia (c. 26). This is the worst part of Flaccus' case. Such evidence about character was intended to be placed against direct evidence of guilt, and the evidence must have been strong, if there was no way of meeting it except by the previous good character of Flaccus.

There were also some charges against Flaccus made by Roman citizens, one by Decianus (c. 29), and another relating to Andro Sextilius, whose deceased wife's property had been claimed and received by Flaccus (c. 34). So far as we can judge, Flaccus was clear of all blame in the matter of this woman's succession.

The conclusion of the speech (c. 38, &c.) is an appeal to the Judices to protect Flaccus for the service that he rendered to the state in the conspiracy of Catilina, and to save him against the men who would ruin him if they could, and the commonwealth at the same time.

This oration was delivered in Caesar's consulship, B.C. 59, the year before that in which Cicero went into exile. This fact will explain several

passages, from which it appears that Cicero was aware of the danger that threatened him. Cicero's colleague C. Antonius was already condemned (c. 38), and in B.C. 59 (Dion Cassius, 38. c. 10). Cicero says in the letter to Atticus (ii. 25), in which he alludes to the trial of Flaccus, "Re publica nihil desperatius; iis quorum opera nihil majore odio. Nos, ut opinio et spes et conjectura nostra fert, firmissima benevolentia hominum muniti sumus."

The following is a list of some of the MSS. referred to in the notes:—

B = Scholiasta Bobiensis.

C = Codex Ambrosianus, unde fragmentum Mediolanense, inter cap. 2 et 3 hujus orationis insertum, primus edidit Aug. Maius, Mediol. 1814.

V = Codex Vaticanus.

S = Codex Salisburgensis Aulicus n. 34, nunc Cod. Lat. Monacencis 15734.

T = Cod. Bernensis n. 254.

P = "Vetus codex" e quo Levinus Torrentius paucas lectiones ad marginem editionis Manutianae (a. 1554) exscripsit.

F = Editio Faerni rarissima Romae 1563.

A = Editio Ascensiana prima a. 1511 (Baiter).

I have used for this oration the text of Baiter in the second volume of the edition of Cicero's orations, 1856.

M. TULLII CICERONIS

PRO

L. VALERIO FLACCO

ORATIO

AD JUDICES.

I. Quum in maximis periculis hujus urbis atque imperii, gravissimo atque acerbissimo rei publicae casu, socio atque adjutore consiliorum periculorumque meorum L. Flacco, caedem a vobis, conjugibus, liberis vestris, vastitatem a templis, delubris, urbe, Italia depellebam, sperabam, judices, honoris potius L. Flacci me adjutorem futurum quam miseriarum deprecatorem. Quod enim esset praemium dignitatis quod populus Romanus, quum hujus majoribus semper detulisset, huic denegaret, quum L. Flaccus veterem Valeriae gentis in liberanda patria laudem prope quingentesimo anno rei publicae rettulisset? Sed si forte aliquando aut beneficii hujus obtrectator aut virtutis hostis aut laudis invidus exstitisset, existimabam L. Flacco multitudinis potius imperitae, nullo tamen cum periculo, quam sapientissimorum et lectissimorum virorum judicium

I. *honoris*] F. has 'honorum.' The 'honor' is the consulship, the only dignity that Flaccus had yet to attain. He was praetor during Cicero's consulship and assisted him in getting evidence about the conspiracy of Catilina (In Cat. iii. c. 2). 'Honor' signifies here the attainment of the dignity (Wunder, Pro Cn. Plancio, c. 1).

Valeriae] Cicero reckons in round numbers, as he generally does. L. Valerius Poplicola was elected consul in place of L. Tarquinius Collatinus, who abdicated the consulship: "Brutus ex Senatusconsulto ad populum tulit ut omnes Tarquiniae gentis exsules essent; collegam sibi comitiis centuriatis creavit P. Valerium, quo adjutore reges ejecerat" (Livy, ii. 2). The dative 'rei publicae' depends on 'rettulisset.' Some editions have a comma after 'rei publicae,' as if it meant 'in the five hundredth year of the Republic.' But if Cicero intended to say this, the word Rei Publicae has very little meaning, for the context shows or rather distinctly says that he reckons from the time of the foundation of Roman freedom. 'Rettulisset' means 'brought back,' 'restored:' 'he restored to the state,' 'he revived for or in the state' the ancient glory of the Valeria Gens. In the oration Pro Sulla, c. 13, there is, "tamen Autronii commemoratio memoriam Sullae rettulisset." As we can say to 'bring back the remembrance,' so we can say to 'bring back the glory or the honour,' and to bring it back to the state.

esse subeundum. Etenim quibus auctoribus et defensoribus omnium tum salus esset non civium solum verum etiam gentium defensa ac retenta, neminem umquam putavi per eos ipsos periculum hujus fortunis atque insidias creaturum. Quod si esset aliquando futurum ut aliquis de L. Flacci pernicie cogitaret, numquam tamen existimavi, judices, D. Laelium, optimi viri filium, optima ipsum spe praeditum summae dignitatis, eam suscepturum accusationem quae sceleratorum civium potius odio et furori quam ipsius virtuti atque institutae adolescentiae conveniret. Etenim quum a clarissimis viris justissimas inimicitias saepe cum bene meritis civibus depositas esse vidissem, non sum arbitratus quemquam amicum rei publicae, posteaquam L. Flacci amor in patriam perspectus esset, novas huic inimicitias nulla accepta injuria denuntiaturum. Sed quoniam, judices, multa nos et in nostris rebus et in re publica fefellerunt, ferimus ea quae sunt ferenda. Tantum a vobis petimus ut omnia rei publicae subsidia, totum statum civitatis, omnem memoriam temporum praeteritorum, salutem praesentium, spem reliquorum in vestra potestate, in vestris sententiis, in hoc uno judicio positam esse et defixam putetis. Si umquam res publica consilium, gravitatem, sapientiam, [providentiam] judicum imploravit, hoc tempore, hoc, inquam, tempore implorat. II. Non estis de Lydorum aut Mysorum aut Phrygum, qui huc corrupti concitatique venerunt, sed de vestra re publica judicaturi, de civitatis statu, de communi salute, de spe bonorum omnium, si qua reliqua est etiam nunc, quae fortium civium mentes cogitationesque sustentet: omnia alia perfugia bonorum, praesidia innocentium, subsidia rei publicae, consilia, auxilia, jura ceciderunt. Quem enim appellem, quem obtester, quem implorem? Senatumne? At is ipse auxilium petit a vobis, et confirmationem auctoritatis suae vestrae potestati permissam esse sentit. An equites Romanos? Judicabitis principes ejus ordinis quinquaginta quid cum omnibus senseritis. An populum Roma-

spe . . . summae dignitatis,] This seems to be the meaning, not 'optima ipsum spe praeditum, summae dignitatis.' Compare Pro P. Sulla, c. 10: "ea spe proposita amplissimae dignitatis."

institutae] Graevius thought that it ought to be 'atque sic institutae;' that some adverb should be joined to 'institutae.' But in the oration Pro Cluentio there is (c. 14): "et natura et voluntate et instituta ratione vitae." The use of 'instituere' has occurred several times (Divin. c. 21; Vol. I.). Terence has (Andria, i. 1, 40):

"Sapienter vitam instituit."

2. *Lydorum aut Mysorum*] Cicero speaks with contempt of the Asiatic peoples. He does not say Greeks, but Lydians, Mysians, Phrygians, as in the letter to Quintus (i. 1, 6): "Nisi forte me Paconii nescio cujus hominis ne Graeci quidem ac Mysii aut Phrygis potius me querelis moveri putas."

auctoritatis suae] The confirmation of what the Senate did in the affair of Catilina.

quinquaginta] The judices at this time were selected from the Senate, the equites, and the tribuni aerarii. It seems that among the judices there were fifty equites.

num? At is quidem omnem suam de nobis potestatem tradidit vobis. Quamobrem, nisi hoc loco, nisi apud vos, nisi per vos, judices, non auctoritatem quae amissa est, sed salutem nostram, quae spe exigua extremaque pendet, tenuerimus, nihil est praeterea quo confugere possimus, nisi forte, quae res hoc judicio tentetur, quid agatur, cui caussae fundamenta jaciantur, judices, non videtis. Condemnatus est is qui Catilinam signa patriae inferentem interemit; quid est caussae cur non is qui Catilinam ex urbe reppulit pertimescat? Repetitur ad poenam qui indicia communis exitii cepit; cur sibi confidat is qui ea proferenda et patefacienda curavit? Socii consiliorum, ministri, comitesque vexantur; quid auctores, quid duces, quid principes sibi exspectent? Atque utinam inimici nostri ac bonorum omnium mecum potius contendant utrum tum omnes boni duces nostri an comites fuerint ad communem conservandam salutem * *

(*Fragmenta a Scholiasta Bobiensi servata.*)

Strangulatos maluit dicere.
Quid sibi meus necessarius Caetra voluit?
Quid vero Decianus?
Utinam esset proprie mea! Senatus igitur magna ex parte . . . .
Di, inquam, immortales! Lentulum . . . .

reppulit] 'Expulit,' Pantagathus, Baiter. Manutius says that 'cur non is' is Flaccus who drove back Catilina by depriving him of the help of the conspirators in Rome. But 'reppulit' refers to Cicero. Antonius, who had the command of the army against Catilina, had been condemned. He did not destroy Catilina however, for he was ill on the day of the battle. But Cicero says that he did. If my colleague has been condemned, who destroyed Catilina, why should not he be afraid who drove him from the city? This is clearly Cicero himself.

The man who was condemned was C. Antonius, Cicero's colleague, who was governor of Macedonia after his consulship. He was prosecuted, B.C. 59, by M. Caelius Rufus (Pro Caelio, c. 31), and defended by Cicero. He was convicted and retired to Cephallenia. Some modern writers attempt to show that he was twice prosecuted; but this seems to be a mistake. He was convicted, as it appears, of Repetundae. The matter is examined by Rein (Das Römische Criminalrecht, p. 660).

Repetitur] There is a reading 'rapitur,' and Manutius applies it to C. Antonius. But Antonius is not alluded to here. Flaccus took (cepit) the letters of the conspirators from the Allobroges. 'Cur sibi confidat is' is Cicero himself, who as consul directed the examination of the conspirators and of the witnesses against them. Cicero has just compared himself with his colleague Antonius; and now he compares himself with Flaccus. He already felt his danger. Manutius has misunderstood the whole passage. The Scholiast understood it. Again, Cicero speaks of 'socii consiliorum, ministri, comites,' who are harassed; and if those who shared the counsels, who served and made themselves associates, are harassed, what may the 'auctores, duces, principes,' expect? Here the 'socii' are Flaccus, the 'auctores' are himself. He concludes by inviting his enemies to try a struggle with himself, which makes all plain; if it wanted making plainer. His enemies soon accepted the challenge (see the Introduction to the orations, Oratio quum Senatui gratias egit, &c.).

potius contendant utrum] There is something wrong here.

(*Fragmentum Mediolanense.*)

* * * externum, quum domestica vita naturaque constaret? Itaque non patiar, D. Laeli, te tibi hoc sumere atque hanc caeteris in posterum, nobis in praesens tempus legem conditionemque * *

Quum adolescentiam notaris, quum reliquum tempus aetatis turpitudinis maculis consperseris, quum privatarum rerum ruinas, quum domesticas labes, quum urbanam infamiam, quum Hispaniae, Galliae, Ciliciae, Cretae, quibus in provinciis non obscure versatus est, vitia et flagitia protuleris, tum denique quid Tmolitae et Lorymeni de L. Flacco existiment audiemus.

Quem vero tot tam gravesque provinciae salvum esse cupiant, quem plurimi cives tota ex Italia devincti necessitudine ac vetustate defendant, quem haec communis nostrum omnium patria propter recentem summi beneficii memoriam complexa teneat, hunc etiamsi tota Asia deposcit ad supplicium, defendam, resistam.

Quid? si neque tota, neque optima, neque incorrupta, neque sua sponte, nec jure, nec more, nec vere, nec religiose, nec integre; si impulsa, si sollicitata, si concitata, si coacta, si impia, si temere, si cupide, si inconstanter nomen suum misit in hoc judicium per egentissimos testes, ipsa autem nihil queri vere de injuriis potest, tamenne, judices, haec ad breve tempus audita longinqui temporis cognitarum rerum fidem derogabunt?

Tenebo igitur hunc ordinem defensor, quem fugit inimicus, et accusatorem urgebo atque insequar et ultro crimen ab adversario flagitabo. Quid est, Laeli? Numquid ea d . . . d . . . ea . . . f . . . no? qui [e]quidem non in umbra neque in illius aetatis disciplinis artibusque versatus est. Etenim puer cum patre consule ad bellum est profectus. Nimirum etiam hoc ipso nomine aliquid . . . iasus * * *

(*Fragmenta a Scholiasta Bobiensi servata.*)

Sed si neque Asiae luxuries infirmissimum tempus aetatis * *

Ex hoc aetatis gradu se ad exercitum C. Flacci patrui contulit.

Tribunus militaris cum P. Servilio gravissimo et sanctissimo cive profectus.

Tmolitae] The people of the mountain range of Tmolus in Lydia. Loryma is a coast town of Caria. Cicero is speaking with contempt of the Asiatic peoples.

vetustate] This means 'old acquaintance,' a meaning which the context gives to 'vetustas.' In the oration Pro Plancio, c. 40, there is "quum vetustas, tum amicitia." Garatoni has collected many examples of this use of 'vetustas.' One may be sufficient from the letter to Matius (Ad Div. xi. 27): "Quantum memoria repetere praeterita possum, nemo est mihi te amicus antiquior. Sed vetustas habet aliquid commune cum multis, amor non habet." Compare Pro Archia, c. 12, note on 'vetustas.'

Quorum amplissimis judiciis ornatus, quaestor factus est.

M. Pisone, qui cognomen frugalitatis, nisi accepisset, ipse peperisset.

Idem novum bellum suscepit atque confecit.

Non Asiae testibus, sed accusatoribus contubernalibus traditus * *.

III. Hunc igitur virum, Laeli, quibus tandem rebus oppugnas? Fuit P. Servilio imperatore in Cilicia tribunus militum. Ea res siletur. Fuit M. Pisoni quaestor in Hispania. Vox de quaestura missa nulla est. Bellum Cretense ex magna parte gessit, atque una cum summo imperatore sustinuit. Muta est hujus temporis accusatio. Praeturae jurisdictio, res varia et multiplex ad suspiciones et simultates, non attingitur. At vero in summo et periculosissimo rei publicae tempore etiam ab inimicis eadem praetura laudatur. —At a testibus laeditur.—Antequam dico a quibus, qua spe, qua vi, qua re concitatis, qua levitate, qua egestate, qua perfidia, qua audacia praeditis, dicam de genere universo et de conditione omnium nostrum. Per deos immortales, judices, vos, quomodo is qui anno ante Romae jus dixerat anno post in Asia jus dixerit a testibus quaeretis ignotis? ipsi conjectura nihil judicabitis? In tam varia jurisdictione tam multa decreta, tot hominum gratiosorum laesas voluntates. Quae est umquam jacta non suspicio, quae tamen solet esse falsa, sed iracundiae vox aut doloris? Et is est reus avaritiae, qui in uberrima re turpe compendium, in maledicentissima civitate, in

3. *P. Servilio*] Isauricus, consul B.C. 79, who had a triumph for his victories over the Isauri and Cilicians (Vol. I. Verr. ii. 1. c. 21).

M. Pupius Piso was governor of Hispania after his praetorship, but the year is uncertain.

The Cretan war was conducted by Q. Metellus Creticus (consul B.C. 69). He began the war in B.C. 68 (Pro Murena, c. 35).

The Praetorship of Flaccus fell in the year of Catilina's second conspiracy (B.C. 63).

At a testibus laeditur.] Yes, says the prosecutor, but he is damaged by the witnesses. His character is of no value in this case, for we have evidence against him.

laesas voluntates. Quae est] Baiter and others read 'laesae,' but the sentence seems to be imperfect; 'quae est' ought to be the second part of the sentence, which corresponds to the first part, 'In tam varia' &c. Baiter points it thus: 'In tam varia . . . voluntates: quae est umquam' &c. But this does not help us. T. has 'laesas.' I think that is the true reading, and of course 'multa decreta' is the accusative also. No Latin scholar will find any difficulty in these accusatives, and the following sentence 'Quae est' &c. is then plain.

in uberrima re] 'In a matter which offered most abundant opportunities;' his praetorship. He was Praetor urbanus. 'Compendium' is profit (Vol. I. Verr. ii. 3. c. 46). Rome was a city of lying and calumny (maledicentissima); as in the oration Pro M. Caelio, c. 16: "At fama fuit. Quotusquisque est qui istam effugere possit in tam maledica civitate." Lies and calumny floated about old Rome. So it is now in Rome, I suppose; and certainly in other towns. A passage may be compared with this in the letter Ad Quintum Fratrem (i. 1. c. 7): "Quod si haec lenitas," &c.

suspiciosissimo negotio maledictum omne, non modo crimen effugit? Praetereo illa quae praetereunda non sunt: nullum hujus in privatis rebus factum avarum, nullam in re pecuniaria contentionem, nullam in re familiari sordem posse proferri. Quibus igitur testibus ego hosce possum refutare nisi vobis? Tmolites ille vicanus, homo non modo nobis, sed ne inter suos quidem notus, vos docebit qualis sit L. Flaccus? quem vos modestissimum adolescentem, provinciae maximae sanctissimum virum, nostri exercitus fortissimum militem, diligentissimum ducem, temperatissimum legatum quaestoremque cognoverunt; quem vos praesentes constantissimum senatorem, justissimum praetorem, [atque] amantissimum rei publicae civem judicavistis. IV. De quibus vos aliis testes esse debetis, de iis ipsi alios testes audietis? At quos testes! primum dicam, id quod est commune, Graecos—non quo nationi huic ego unus maxime fidem derogem; nam si quis umquam de nostris hominibus a genere isto studio ac voluntate non abhorrens fuit, me et esse arbitror et magis etiam tum quum plus erat otii fuisse: sed sunt in illo numero multi boni, docti, pudentes, qui ad hoc judicium deducti non sunt; multi impudentes, illiterati, leves, quos variis de caussis video concitatos —verumtamen hoc dico de toto genere Graecorum: tribuo illis

vicanus,] Some unknown fellow from the 'vicus' of Tmolus, or some small place on or about the Tmolus; a witness who had said something against Flaccus. Cicero begins by speaking contemptuously of the witness. The inhabitants of some small places are often named 'vicani' in inscriptions. The form of 'vicanus' may be compared with 'paganus.'

4. *primum dicam, . . . Graecos . . . verumtamen*] The construction is irregular. He begins 'primum dicam . . . Graecos,' which he interrupts by a long remark about them; and he resumes the matter with the words 'verumtamen hoc dico.' Cicero will allow the Greeks many great qualities; but they are liars; they know not what an oath is or good faith. Polybius, a Greek, had the same opinion of his countrymen; and what we know of their history confirms what he says. The exceptions were few. Quintilian (xi. 1, 89) has a remark on this passage of Cicero: "Quod ad nationes exteras pertinet, Cicero varie detracturus Graecis testibus fidem, doctrinam iis concedit ac litteras, seque ejus gentis amatorem esse profitetur." The testimony of the Greek against the Greeks is stronger than Cicero's. Polybius attributes their want of faith to their want of religion: "The Roman polity seems to me to show the greatest diversity from other systems, and to the advantage of the Romans, in the notions about the gods; and I am of opinion that what is made a matter of reproach among the rest of mankind is the very thing which keeps together the Roman state; and I mean religion (or superstition). For among the Romans this part of polity has been invested with such tragic solemnity, and has been carried among them both into private life and public affairs to such a degree as to leave nothing undone. Now this to most people might seem strange; but I think that they have done this for the sake of the people. For if it were possible to form a polity of wise men, perhaps such a fashion as this would not be necessary. But since every multitude is fickle and full of unlawful desires, unreasoning impulse, violent passion, it remains to hold multitudes together by the fear of things unseen and by such tragical solemnity. Accordingly the men of old times seem to me to have introduced among the multitude, not inconsiderately and without a purpose, the opinions about the gods, and the notions about the things in Hades; but much rather do the men of the present time seem to drive out these opinions and notions inconsiderately

litteras, do multarum artium disciplinam, non adimo sermonis leporem, ingeniorum acumen, dicendi copiam; denique etiam, si qua sibi alia sumunt, non repugno: testimoniorum religionem et fidem numquam ista natio coluit; totiusque hujusce rei quae sit vis, quae auctoritas, quod pondus, ignorant. Unde illud est Da mihi testimonium mutuum? Num Gallorum, num Hispanorum putatur? Totum istud Graecorum est, ut etiam qui Graece nesciunt, hoc quibus verbis a Graecis dici soleat sciant. Itaque videte quo vultu, qua confidentia dicant; tum intelligetis qua religione dicant. Numquam nobis ad rogatum respondent, semper accusatori plus quam ad rogatum. Numquam laborant quemadmodum probent quod dicunt, sed quemadmodum se explicent dicendo. Iratus Flacco dixit M. Lurco, quod, ut ipse aiebat, libertus erat ejus turpi judicio condemnatus. Nihil dixit quod laederet quum cuperet, impediebat enim religio. Tamen id quod dixit quanto cum pudore, quo tremore et pallore dixit. Quam promptus homo P. Septimius, quam iratus de judicio et de villico? Tamen haesitabat; tamen ejus iracundiae religio nonnumquam repugnabat. Inimicus M. Caelius, quod, quum in re manifesta putasset nefas esse publicanum

and contrary to sound sense. Wherefore, not to mention the rest, those among the Hellenes who manage public matters, if they be trusted with a talent only, and there be ten men to put their hands to the writing, and as many seals, and twice the number of witnesses, cannot keep their good faith. But among the Romans, both in the magistracies and foreign missions, those who handle very large sums of money observe their duty through their good faith to their oath. In other nations it is rare to find a man who keeps his hands off the public money and who is pure in such things; but among the Romans it is rare to find any man detected in such an act." Polybius saw the close of Rome's heroic age. In Cicero's time the Romans no longer deserved this honourable character.

Da mihi] Δάνεισόν μοι μαρτυρίαν: "lend me your testimony, and you shall have mine."

Cicero shows us a Greek witness, an impudent confident fellow. These witnesses never answer straight to the question; and when they are examined for the prosecution, they answer more than they are asked. "They are never troubled about getting credit for what they say, but only about showing off themselves by talking." This is an excellent description of a forward lying witness, of one who is 'cupidus' (Pro Fonteio, c. 10), as the Romans termed it. He would serve the side for which he is examined, but above all things he would show off himself (see c. 5).

turpi judicio] A trial in which an adverse judgment brings 'infamia' on the defendant (Vol. II. Pro Quintio, c. 15). As to Septimius and Lurco, see c. 35. Cicero gives examples of Roman witnesses, who would gladly have done all they could against Flaccus, but they had some regard for their character and for truth.

M. Caelius,] We do not know who he was; but the context shows that he was a Publicanus. He was proposed as a Recuperator in a trial in which some other Publicanus was defendant, but as the defendant's case was manifestly bad, Caelius was struck off the list of Recuperatores by the Praetor, as a man who might be prejudiced in favour of one who belonged to his own order. Cicero is speaking ironically, when he says that Caelius would have thought it an act of irreligion to have been a Recuperator on the trial. Caelius would have had no objection, but the praetor Flaccus would not have him. And yet the man, when he was giving evidence against Flaccus, did no more on the trial than show his good will to injure Flaccus. He would have done it, if he could have done it honestly. Klotz has explained this right.

judicare contra publicanum, sublatus erat e numero recuperatorum. Tamen tenuit se, neque attulit in judicium quidquam ad laedendum nisi voluntatem.

V. Hi si Graeci fuissent, ac nisi nostri mores ac disciplina plus valeret quam dolor ac simultas, omnes se spoliatos, vexatos, fortunis eversos esse dixissent. Graecus testis cum ea voluntate processit ut laedat: non jurisjurandi, sed laedendi verba meditatur. Vinci, refelli, coargui putat esse turpissimum: ad id se parat: nihil aliud curat. Itaque non optimus quisque nec gravissimus, sed impudentissimus loquacissimusque deligitur. Vos autem in privatis minimarum rerum judiciis testem diligenter expenditis: etiam si formam hominis, si nomen, si tribum nostis, mores tamen exquirendos putatis. Qui autem dicit testimonium ex nostris hominibus, ut se ipse sustentat, ut omnia verba moderatur, ut timet ne quid cupide, ne quid iracunde, ne quid plus minusve quam sit necesse dicat. Num illos item putatis, quibus jusjurandum jocus est, testimonium ludus, existimatio vestra tenebrae; laus, merces, gratia, gratulatio proposita est omnis in impudenti mendacio. Sed non dilatabo orationem meam: etenim potest esse infinita, si mihi libeat totius gentis in testimoniis dicendis explicare levitatem. Sed propius accedam: de his nostris testibus dicam. Vehementem accusatorem nacti sumus, judices, et inimicum in omni genere odiosum ac molestum, quem spero his rebus fore magno usui et amicis et rei publicae; sed certe inflammatus incredibili cupiditate hanc caussam accusationemque suscepit. Qui comitatus in inquirendo? comitatum dico? immo vero quantus exercitus? quae jactura? qui sumptus? quanta largitio? Quae quamquam utilia sunt caussae, timide tamen dico, quod vereor ne Laelius ex his rebus, quas sibi suscepit gloriae caussa, putet aliquid oratione mea sermonis in sese

5. *ad id*] That is, 'not to be beaten.'

etiam si formam] Klotz refers to the rules laid down in the Digest (22. 5. De Testibus). We have in this title (3. § 1) the following instructions of the Emperor Hadrian to the governor of a Roman province: "Tu magis scire potes quanta fides habenda sit testibus, qui et cujus dignitatis et cujus existimationis sint et qui simpliciter visi sint dicere, utrum unum eundemque meditatum sermonem attulerint an ad ea quae interrogaveras ex tempore verisimilia responderint."

ut se ipse sustentat,] "How he checks himself, restrains himself." This is the same as 'retinet,' 'cohibet.'—'existimatio verba, tenebrae laus:' Pantagathus, Baiter.

his rebus,] It is said that all the MSS. have 'his verbis.' The Juntine and F. have 'his rebus.' The commentators have suspected various things, 'nervis,' 'moribus,' 'viribus.' If 'his rebus' is right, it refers to 'vehementem accusatorem' and to what follows these two words. Cicero is speaking sarcastically. He adds: "but at least he has undertaken this case and prosecution being moved by an incredible fury of party spirit." 'Cupiditas' is not 'odium,' as Sylvius says, but 'nimis acre studium partium' as Graevius says, who compares Pro Fonteio, c. 13: "Recordamini, judices," &c.

aut invidiae esse quaesitum. VI. Itaque hanc partem totam relinquam: tantum a vobis petam, judices, ut, si quid ipsi audistis communi fama atque sermone de vi, de manu, de armis, de copiis, memineritis quarum rerum invidia, lege hac recenti ac nova certus est inquisitioni comitum numerus constitutus. Sed ut hanc vim omittam, quanta illa sunt, quae quoniam accusatorio jure et more sunt facta, reprehendere non possumus, queri tamen cogimur: primum quod distributis partibus sermo est tota Asia dissipatus, Cn. Pompeium, quod L. Flacco est vehementer inimicus, contendisse a D. Laelio, paterno amico ac pernecessario, ut hunc hoc judicio arcesseret; omnemque ei suam auctoritatem, gratiam, copias, opes ad hoc negotium conficiendum detulisse. Id hoc verisimilius Graecis hominibus videbatur, quod paullo ante in eadem provincia familiarem Laelium Flacco viderant. Pompeii autem auctoritas quum apud omnes tanta est quanta esse debet, tum excellit in ista provincia quam nuper et praedonum et regum bello liberavit. Adjunxit illa,

6. *lege hac*] The Scholiast (Schol. Bob.) supposes that Cicero refers to a Judiciaria Lex proposed either by P. Vatinius tr. pl. or by Q. Fufius Calenus: "Legem judiciariam videtur significare sive a *P. Vatinio* tribuno plebis sive a Q. Fufio Caleno praetore latam: pertinebat autem ad judicum rejectionem. Igitur ea lege praefinitum videbatur, quot numero comites habere deberent, qui in provincias irent ut accusationem de pecuniis repetundis instruerent. Nunc ergo Laelium videri vult supergressum legis istius praescripta inciviliter multa fecisse." This Lex Fufia is mentioned by Dion Cassius (38. c. 8), and the passage is explained by Orelli (Index Legum, p. 178) correctly, I think, as referring to a Judiciaria Lex.

Cicero tells the judices, if they have heard of acts of violence committed in the province by Laelius and his friends, when they were collecting their evidence against Flaccus, to remember what those things were which were so odious that a Lex was lately passed to fix the number of persons who might accompany a prosecutor, when he was collecting evidence in a province.

Baiter points it thus, 'memineritis: quarum rerum invidia.' Each nation has its way of pointing; and I may not understand Baiter's. If the passage were so pointed here, a reader would misunderstand it.

hanc vim] Cicero assumes that violent acts were done by Laelius. He will however pass over them, and mention other things (illa).

distributis partibus] "Each man having his district in which he was to spread the report," that Cn. Pompeius urged Laelius to prosecute Flaccus (judicio arcesseret). The remark about the Greeks is a piece of bitter satire: the Greeks believed this the more readily, as they had lately seen Laelius in the province on terms of great intimacy with Flaccus. What more natural to a Greek than for a man to attack his friend? Manutius, who is not sharp at seeing a joke or discovering humour, says on these words: "ut ejus crimina propter familiaritatem nosse potuerit;" but Cicero would not say this or mean this. An enemy of Flaccus might have said it.

est vehementer] '*esset* B. et Huldricus, *est* ceteri;' and Baiter.

praedonum] Pompeius had received the command in the war against the pirates by a Lex of A. Gabinius, and the command in the war against Mithridates by the Lex Manilia (De Imper. Cn. Pompeii, Vol. II.).

Adjunxit illa,] Laelius of course, but we might expect that the name would have been given. The 'testimonii denuntiatio' is the giving persons notice to appear as witnesses. There are some rules on this matter in the later Roman Law (Dig. 22. tit. 5. De Testibus). The verb 'denuntiare' is a term of art: "Lege Julia judiciorum publicorum cavetur ne invito denuntietur ut," &c. Those who could not stay at home were men who had no means or no character, and they were carried to Rome as witnesses with a liberal allowance for the journey; as with us. A witness who is sent a long way has always a good appe-

ut eos qui domo exire nolebant testimonii denuntiatione terreret: qui domi stare non poterant, largo et liberali viatico commoveret. Sic adolescens ingenii plenus locupletes metu, tenues praemio, stultos errore permovit: sic sunt expressa ista praeclara quae recitantur psephismata, non sententiis, neque auctoritatibus declarata, nec jurejurando constricta, sed porrigenda manu profundendoque clamore multitudinis concitatae.

VII. O morem praeclarum disciplinamque, quam a majoribus accepimus, si quidem teneremus; sed nescio quo pacto jam de manibus elabitur. Nullam enim illi nostri sapientissimi et sanctissimi viri vim contionis esse voluerunt. Quae scisceret plebes, aut quae populus juberet, summota contione, distributis partibus, tributim et centuriatim, descriptis ordinibus, classibus, aetatibus, auditis auctoribus, re multos dies promulgata et cognita, juberi vetarique voluerunt. Graecorum autem totae res publicae sedentis contionis temeritate administrantur. Itaque, ut hanc Graeciam, quae jamdiu suis consiliis perculsa et afflicta est, omittam, illa

tite, and it is improved by eating at another's cost.

psephismata,] The resolutions of the Greek towns which are afterwards mentioned. They were carried by χειροτονία, by a show of hands of an excitable crowd. Cicero dexterously throws discredit on all the evidence that was got against Flaccus. It was no evidence indeed, being merely the assent of a noisy crowd to something which somebody proposed; for evidence must be the declaration of definite persons. It wanted also the confirmation of the oath. The end of this sentence is very difficult to translate. Indeed what is so difficult to translate as the Latin language? There are two participles, 'declarata' and 'constricta' for the first members of the sentence, but none for the last, unless we supply 'declarata,' "by the outstretched hands and tumultuous shouts of an excited multitude."

7. *Quae sclsceret plebes,*] He is alluding to a Plebiscitum, and to a Lex (quae populus juberet). The Romans had no voting by show of hands: no measure could be carried by the violence of a popular assembly (contio). The Romans had often violent scenes at their elections and on other occasions, but the legal form of expressing the popular will was quiet and regular. The people were removed out of the way (summota contione), their several places were assigned to them. If we were to attempt to explain what follows by a statement of the Roman method of voting, which does not at all concern the general understanding of the passage, we might find some difficulty. Cicero heaps words on words, and might be intelligible enough to a Roman; but if we were to give this passage a precise interpretation, we should be doing what the orator never intended. At the end he is clearer; after the proposers and supporters of the Lex (auctores) have addressed the people; after the Rogatio or intended Lex has been put up in public for many days, and every body knew what the thing was, the people by their votes accepted or rejected the Lex.

Cicero mentions the 'contiones' (ἐκκλησίαι) of the Greeks as sitting. As the Greeks met in the theatre where there were seats, there was nothing strange in their sitting down; and as Klotz acutely remarks, the sitting was of itself quite an innocent thing. It is more to the purpose what Cicero says shortly after, that the popular assemblies of Athens were the ruin of the state. The Senate saved the Roman state, not by its virtue, nor by its wisdom, though a Roman senate was certainly wiser than an Athenian people, but by the superior prudence or perhaps only caution of a smaller number who feel that their own preservation often consists in resisting the popular opinion.

juberi vetarique] Bake (Cicero, De Leg. iii. 3) proposes to read 'juberi vetari voluerunt;' and he may be right.

vetus, quae quondam opibus, imperio, gloria floruit, hoc uno malo concidit, libertate immoderata ac licentia contionum. Quum in theatro imperiti homines, rerum omnium rudes ignarique, consederant, tum bella inutilia suscipiebant, tum seditiosos homines rei publicae praeficiebant, tum optime meritos cives e civitate ejiciebant. Quod si haec Athenis tum, quum illae non solum in Graecia, sed prope cunctis gentibus enitebant, accidere sunt solita, quam moderationem putatis in Phrygia aut in Mysia contionum fuisse? Nostras contiones illarum nationum homines plerumque perturbant. Quid, quum soli sunt ipsi, tandem fieri putatis? Caesus est virgis Cymaeus ille Athenagoras, qui in fame frumentum exportare erat ausus. Data contio Laelio est. Processit ille, et Graecus apud Graecos non de culpa sua dixit, sed de poena questus est. Porrexerunt manus: psephisma natum est. Hoc testimonium est? Nuper epulati, paullo ante omni largitione saturati, Pergameni, quod Mithridates, qui multitudinem illam non auctoritate sua, sed sagina tenebat, se velle dixit, id sutores, id zonarii conclamarunt. Hoc testimonium est civitatis? Ego testes a Sicilia publice duxi. Verum erant ea testimonia non concitatae contionis, sed jurati senatus. Quare jam non est mihi contentio cum teste: vobis videndum est sintne haec testimonia putanda.

VIII. Adolescens bonus, honesto loco natus, disertus, cum maximo ornatissimoque comitatu venit in oppidum Graecorum: postulat contionem: locupletes homines et graves ne sibi adver-

Phrygia aut in Mysia] See c. 2.

Athenagoras,] He was flogged for exporting corn in a famine. It is not said who flogged him, nor by whose orders it was done. If a man exported corn in a famine in some parts of Europe now, he would be killed by the people, if they could get at him. Athenagoras after being flogged was allowed to address the Ecclesia; and he complained of the flogging. The people held out their hands: and that was a resolution (ψήφισμα). This was the Greek way of doing such things. "Is this," says Cicero, "evidence? Is a 'psephisma' made in this way a thing that we can take as evidence?"

'Data contio Laelio;' some critics suppose that it should be 'a Laelio;' but the better opinion is that 'Laelio' should be erased.

Pergameni,] This Mithridates of Pergamum is mentioned in another place (c. 17). He kept the folks of Pergamum in his hands not by the weight of his character, but by stuffing them well (sagina); and then all the cobblers, tailors, beltmakers, all the citizens by acclamation voted just what Mithridates pleased. The Roman speaks with contempt of the handicraftsmen who filled the Greek popular assemblies. (See THE PROVINCE ASIA, Vol. II.) There is a reading 'coriarii' in place of 'zonarii.' Klotz tells us how this reading got into some of the MSS. It is only necessary to suppose that the copier thought of his ass' skin made into parchment, on which he was then writing.

publice duxi.] "I," says Cicero, "brought witnesses from Sicily on account of the Sicilian towns (publice duxi): but the evidence that I brought was the evidence not of a turbulent popular assembly, but of a senate on oath." 'Publice duxi' is rather difficult to translate; but we understand it, Cicero went to Sicily to collect evidence for the prosecution of Verres.

sentur testimonii denuntiatione deterret: egentes et leves spe legationis et viatico publico, privata etiam benignitate prolectat. Opifices et tabernarios, atque illam omnem faecem civitatum, quid est negotii concitare, in eum praesertim qui nuper summo cum imperio fuerit, summo autem in amore esse propter nomen ipsum imperii non potuerit? Mirandum vero est homines eos quibus odio sunt nostrae secures, nomen acerbitati, scriptura, decumae, portorium morti, libenter arripere facultatem laedendi quaecumque detur. Mementote igitur, quum audietis psephismata, non audire vos testimonia; audire temeritatem vulgi, audire vocem levissimi cujusque, audire strepitum imperitorum, audire contionem concitatam levissimae nationis. Itaque perscrutamini penitus naturam rationemque criminum: jam nihil praeter spem, nihil praeter terrorem ac minas reperietis.

IX. In aerario nihil habent civitates, nihil in vectigalibus. Duae

8. *spe legationis*] Cicero represents this excellent young man, D. Laelius, as seducing the needy and men without character by the hope of being sent to Rome as members of a 'legatio,' with an allowance for the journey. The 'legatio,' a word which in its collective sense corresponds to 'advocatio' (a body of 'advocati'), would be sent by the town and at the town cost to give evidence against Flaccus, to convey to Rome as evidence the 'psephismata' of cobblers and tailors. We see from this and other passages how expensive these trials at Rome must have been (Pro Fonteio, Introduction), expensive to the provincials, and sometimes to the defendant.

nomen ipsum imperii] The very name of the authority which the governor has prevents him from being much loved. In the letter to Quintus (i. 1. 11) Cicero speaks of the 'nomen publicani:' "Quare nomen publicani neque ii debent horrere qui semper vectigales fuerunt," &c.

scriptura, . . . morti,] He mentions the three great branches of Roman revenue in the provinces: "the Roman fasces were hateful, the Roman name was bitter in the mouth, the scripturae, decumae, portorium were death." For once at least he has told us the truth. They hated the Roman taxation like death.

spem,] There is also a reading 'speciem,' or rather 'spetiem,' which Klotz has and explains thus: If the Judices examined well the charges against Flaccus, they would find them to contain only idle show, nothing but idle terrors and mere threats; in short, that there is nothing behind them.—He observes that Garatoni had already rightly understood the passage, and that 'spem' cannot be explained. Baiter has followed Klotz. If 'spem' is right, Cicero says, "You will find nothing in the charges except the hopes of those who make them, nothing except their attempts to frighten us, and their threats." After what he has said in this chapter the conclusion seems to me very plain; and it is made still plainer by a passage in c. 10: "nego esse ista testimonia, quae tu ipse psephismata appellas, sed fremitum egentium, et motum quendam temerarium Graeculae contionis." Why does he say 'egentium,' 'the noise of needy fellows?' Because they expected to be paid for their sweet voices.

9. *In aerario*] The transition is abrupt, and it has been supposed that something has been lost; and in some editions we find printed "Deesse videntur nonnulla." Baiter observes that Mai has shown from the Scholiast that nothing is wanting, and Klotz says that it is all right. The states of Asia, says Cicero, have no money in the treasury, none in their revenues. There are two ways of making up a sum of money, either by borrowing (versura) or by a tax (tributo). Still we may ask, how is this connected with what precedes? The Scholiast has the following remark on the words 'In aerario . . . vectigalibus:' "materiam nul-

rationes conficiendae pecuniae, aut versura aut tributo. Nec tabulae creditoris proferuntur, nec tributi confectio ulla recitatur. Quam vero facile falsas rationes inferre et in tabulas quodcunque commodum est referre soleant ex Cn. Pompeii litteris ad Hypsaeum, et Hypsaei ad Pompeium missis, quaeso, cognoscite. LITTERAE POMPEII ET HYPSAEI. Satisne vobis coarguere his auctoribus dissolutam Graecorum consuetudinem licentiamque impudentem videmur? Nisi forte qui Cn. Pompeium, qui praesentem, qui nullo impellente fallebant, eos urgente Laelio in absentem et in L. Flaccum aut timidos fuisse aut religiosos putamus. Sed fuerint incorruptae litterae domi: nunc vero quam habere auctoritatem aut quam fidem possunt? Triduo lex ad praetorem deferri, judicum signis obsignari jubet. Tricesimo die vix deferuntur. Ne corrumpi tabulae facile possint idcirco lex obsignatas in publico poni voluit. At obsignantur corruptae. Quid refert igitur tanto post ad judices deferantur, an omnino non deferantur?

X. Quid, si testium studium cum accusatore sociatum est, tamenne isti testes habebuntur? Ubi est igitur illa exspectatio quae versari in judiciis solet? Nam antea, quum dixerat accusator acriter et vehementer, quumque defensor suppliciter demisseque responderat, tertius ille erat exspectatus locus testium, qui aut sine ullo studio dicebant aut cum dissimulatione aliqua cupiditatis. Hoc

lam habuisse praedandi Flaccum in istis civitatibus quas invenerit opibus exhaustas et quae nec versuram fecisse nec viritim titulum contulisse dicantur."

quodcunque commodum est] 'Whatever they please' (Vol. I. Verr. ii. 5. c. 5; Pro Cluentio, c. 35; De Lege Agraria, i. 1).—'Hypsaeum:' P. Plautius Hypsaeus, Pompeius' Quaestor.

incorruptae . . . domi:] Suppose the 'litterae,' the written documents which these men have brought to Rome, were not falsified in Asia. The Lex under which the prosecution was conducted required such documents to be brought to the Praetor within three days after they arrived at Rome; but it was near thirty days before they were brought, as he says. The Lex required them to be sealed and placed in some public depository. "But," he adds, "they are sealed when they are already falsified;" they are falsified and then they are sealed. "What matters it then, whether, after so long an interval, they are brought to the judices or not brought at all?" The words 'at obsignantur corruptae' are an answer of the orator to the supposition contained in the words 'sed fuerint incorruptae litterae domi.'

10. *testium studium*] "What, if the witnesses shall be associated with the prosecutor as partisans, shall such men as these still be considered as witnesses?" He represents the witnesses and the prosecutor as living together; if the witnesses should make one false step in their evidence (si verbo titubarint), they will have no lodgings to go back to. The prosecutor will turn them loose on the streets. He says of the pirates in another passage (c. 13): "nihil esse unde proficiscantur, nihil quo revertantur;" and (In Cat. iv. 10): "ut etiam illi qui absunt habeant quo victores revertantur."

The witnesses generally appeared 'tertio loco.' The accusator made his charge, then the 'reus' by his patronus made his defence, and then the witnesses were examined. But sometimes it was not so. However this was the general practice, and when both sides had been heard, people were eager to see what the evidence would be (tertius ille erat exspectatus locus testium).

vero quid est? Una sedent; ex accusatorum subselliis surgunt; non dissimulant; non verentur. De subselliis queror? una ex domo prodeunt: si verbo titubaverint, quo revertantur non habebunt. An quisquam esse testis potest quem accusator sine cura interroget nec metuat ne sibi aliquid quod ipse nolit respondeat? Ubi est igitur illa laus oratoris, quae vel in accusatore antea vel in patrono spectari solebat?—Bene testem interrogavit: callide accessit: reprehendit: quo voluit adduxit: convicit et elinguem reddidit.—Quid tu istum roges, Laeli, qui priusquam hoc, Te rogo, dixeris, plura etiam effundet quam tu ei domi ante praescripseris? Quid ego autem defensor rogem? Nam aut oratio testium refelli solet aut vita laedi. Qua disputatione orationem refellam ejus qui dicit, Dedimus, nihil amplius? In hominem dicendum est igitur quum oratio argumentationem non habet. Quid dicam in ignotum? Querendum est ergo et deplorandum, id quod jamdudum facio, de omni accusationis iniquitate: primum de communi genere testium; dicit enim natio minime in testimoniis dicendis religiosa. Propius accedo: nego esse ista testimonia, quae tu ipse psephismata appellas, sed fremitum egentium, et motum quendam temerarium Graeculae contionis. Intrabo etiam magis. Qui gessit non adest: qui numerasse dicitur non est deductus: privatae litterae nullae proferuntur: publicae retentae sunt in accusatorum potestate: summa est in testibus: hi vivunt cum inimicis, adsunt cum adversariis, habitant cum accusatoribus. Utrum hic tandem disceptationem et cognitionem veritatis an innocentiae labem aliquam aut ruinam fore

reprehendit:] These witnesses were prepared. There was nothing in the examination by which either the prosecutor or the defendant's advocate (patronus) could gain any credit. The men had learned their lesson and had only to repeat it.

This was the usual talk in court: "He examined the witness well; he made his approach to him cleverly; he brought him back (when he was going too fast, or going the wrong way); he brought him to the point that he wished; he made him contradict himself and struck him dumb." These men knew the way to examine a witness; they had plenty of practice. But to examine a witness well is a thing that a very common man may do: "Longum est enim nunc me explicare qua ratione aut confirmare aut infirmare testes, tabulas, quaestiones oporteat. Haec sunt omnia ingenii vel mediocris, exercitationis autem maximae: artem quidem et praecepta duntaxat hactenus requirunt ut certis dicendi luminibus ornentur" (De Or. ii. c. 27).

Plautus explains 'reprehendere' (Trinum. iii. 1, 23):

"—— celeri gradu
Sunt uterque: illic reprehendit hunc priorem pallio."

oratio . . . vita] A witness must either be cross-examined on what he has said in his chief examination, or his character must be damaged. 'Dedimus,' we gave money to Flaccus. This is all that he says. Whether he was lying or telling the truth, he was a good witness for sticking to the matter. But he might be asked, who gave, where, when, and so forth; and in what coin? He comes to this afterwards. 'Qui gessit non adest:' we have not got the man who managed the business; "the man who is said to have paid the money is not produced." If Flaccus was guilty, he would take care that such a witness should not be produced, if he could prevent it.

putatis? Multa enim sunt ejusmodi, judices, ut etiamsi in homine ipso de quo agitur negligenda sint, tamen in conditione atque in exemplo pertimescenda videantur. XI. Si quem infimo loco natum, nullo splendore vitae, nulla commendatione famae, defenderem, tamen civem a civibus communis humanitatis jure ac misericordia deprecarer, ne ignotis testibus, ne incitatis, ne accusatoris consessoribus, convivis, contubernalibus, ne hominibus, levitate Graecis, crudelitate barbaris, civem ac supplicem vestrum dederetis; ne periculosam imitationem exempli reliquis in posterum proderetis. Sed quum L. Flacci res agatur, cujus ex familia qui primus consul factus est, primus in hac civitate consul fuit; cujus virtute regibus exterminatis libertas in re publica constituta est; quae usque ad hoc tempus honoribus, imperiis, rerum gestarum gloria, continuata permansit; quumque ab hac perenni contestataque virtute majorum non modo non degenerarit L. Flaccus, sed, in qua maxime florere generis sui gloriam viderat, laudem patriae in libertatem vindicandae praetor adamarit; in hoc ego reo ne quod perniciosum exemplum prodatur pertimescam, in quo, etiamsi quid errasset, omnes boni connivendum esse arbitrarentur? Quod quidem ego non modo non postulo, sed contra, judices, vos oro et obtestor, ut totam caussam quam maxime intentis oculis, ut aiunt, acerrime contemplemini. Nihil religione testatum, nihil veritate fundatum, nihil dolore expressum, contraque omnia corrupta libidine, iracundia, studio, pretio, perjurio reperientur.

XII. Etenim jam universa istorum cognita cupiditate accedam ad singulas querelas criminationesque Graecorum. Classis nomine pecuniam civitatibus imperatam queruntur; quod nos factum, judices, confitemur. Sed si hoc crimen est, aut in eo est quod non

conditione] Cicero would make us believe, or the judices, that the dishonesty of the witnesses could not injure Flaccus. "For there are many things of such a kind that though we may care little for them in any particular case (in homine ipso de quo agitur), yet generally (in conditione) and as an example we must consider them to be dangerous." 'Conditio' is the 'conditio vivendi,' 'sors communis,' as Faernus says. Sylvius wrote 'in imitatione' for 'conditione,' and he says that it is so in some MSS.; but Baiter does not notice this reading. Sylvius thinks that the following words, 'ne periculosam imitationem,' confirm his conjecture. If 'conditione' cannot have the meaning that is here given to it, because 'vivendi' or some such word is necessary, I cannot explain it. In Cat. iii. 1: "nascendi incerta conditio."

11. *infimo loco*] See Pro Archia, c. 3.— 'primus in hac:' see Pro Flacco, c. 1.— 'civis a civibus,' S., Baiter.

intentis oculis,] 'With steady eyes,' is opposed to 'connivendum' or 'conivendum,' as Baiter writes it. 'Ut aiunt' shows that 'intentis oculis' was a familiar form of speech, something like a proverb.

12. *Classis nomine*] "One charge is that contributions were levied on the cities under the head of contributions to the support of a fleet." This was the way of getting money from the provincials to support a fleet, or nominally as ship-money (Vol. I. Verr. ii. 1. c. 34, note; and c. 14 of this oration).

licuerit imperare, aut in eo quod non opus fuerit navibus, aut in eo quod nulla hoc praetore classis navigarit. Licuisse ut intelligas, cognosce quid me consule senatus decreverit, quum quidem nihil a superioribus continuorum annorum decretis decesserit. SENATUS-CONSULTUM. Proximum est ergo ut opus fuerit classe necne quaeramus. Utrum igitur hoc Graeci statuent aut ullae exterae nationes, an vestri praetores, vestri duces, vestri imperatores? Equidem existimo in ejusmodi regione atque provincia quae mari cincta, portibus distincta, insulis circumdata esset, non solum praesidii sed etiam ornandi imperii caussa navigandum fuisse. Haec enim ratio ac magnitudo animorum in majoribus nostris fuit ut, quum in privatis rebus suisque sumptibus minimo contenti tenuissimo cultu viverent, in imperio atque in publica dignitate omnia ad gloriam splendoremque revocarent. Quaeritur enim in re domestica continentiae laus, in publica dignitatis. Quod si etiam praesidii caussa classem habuit, quis erit tam iniquus qui reprehendat?—Nulli erant praedones.—Quid, nullos fore quis praestare poterat?—Minuis, inquit, gloriam Pompeii.—Immo tu auges molestiam. Ille enim classes praedonum, urbes, portus, receptacula sustulit, pacem maritimam summa virtute atque incredibili celeritate confecit; illud vero neque suscepit neque suscipere debuit, ut si qua uspiam navicula praedonum apparuisset accusandus videretur. Itaque ipse in Asia, quum omnia jam bella terra marique confecisset, classem tamen iisdem istis civitatibus imperavit. Quod si tum statuit opus esse, quum ipsius praesentis nomine tuta omnia et pacata esse poterant, quid quum ille decessisset Flacco existimatis statuendum et faciendum fuisse? XIII. Quid nos hic, nonne ipso Pompeio auctore, Silano et Murena consulibus, decrevimus ut classis in

ut intelligas, cognosce] He addresses the prosecutor.

portibus distincta,] 'Dotted with ports.' There were many ports on the Asiatic coast, and a fleet was necessary to protect commerce against pirates. But the prosecutor says, "You are impairing the credit of Pompeius (Minuis, inquit,) who had put down the pirates." Cicero rejoins: "No, it is you who are adding to his trouble:" for Pompeius did not expect to be blamed, if a piratical vessel should again show itself; and this might have happened, if he and Flaccus had not maintained a fleet.

in privatis rebus] The commentators quote Horace (Carm. ii. 15):

"Privatus illis census erat brevis,
Commune magnum."

Compare Pro Murena, c. 36.

classes praedonum,] See De Imp. Cn. Pompeii, c. 12. Vol. II.

13. *Quid nos hic,*] "Well, what were we doing here; did we not on the advice of Pompeius himself," &c.? This which is one of the most common forms in the Latin language is still not understood, if we can form a conclusion from editors' pointing. Baiter points: 'Quid? nos hic nonne ipso;' which is ridiculous. 'Quid nos hic,' is a distinct question, the beginning of a sentence, but it is interrupted, and begins again with 'Nonne ipso.' Nothing can be plainer.

Italia navigaret? nonne eo ipso tempore, quum L. Flaccus in Asia remiges imperabat, nos hic in mare superum et inferum sestertium ter et quadragies erogabamus? Quid postero anno? Nonne M'. Curtio et P. Sextilio quaestoribus pecunia in classem est erogata? Quid, hoc omni tempore equites in ora maritima non fuerunt? Illa est enim gloria divina Pompeii: primum praedones eos, qui tum quum illi bellum maritimum gerendum datum est toto mari dispersi vagabantur, redactos esse omnes in potestatem; deinde Syriam esse nostram, Ciliciam teneri, Cyprum per Ptolemaeum regem nihil audere; praeterea Cretam Metelli virtute esse nostram: nihil esse unde proficiscantur, nihil quo revertantur; omnes sinus, promontoria, littora, insulas, urbes maritimas claustris imperii nostri contineri. Quod si Flacco praetore nemo in mari praedo fuisset, tamen hujus diligentia reprehendenda non esset. Idcirco enim quod hic classem habuisset, existimarem non fuisse. Quid, si L. Eppii, L. Agrii, C. Cestii, equitum Romanorum, hujus etiam clarissimi viri, Cn. Domitii, qui in Asia tum legatus fuit, testimonio doceo, eo ipso tempore, quo tu negas classem habendam fuisse, complures a praedonibus esse captos, tamen Flacci consilium in remigibus imperandis reprehendetur? Quid, si etiam occisus est a piratis Adramytenus homo nobilis, cujus est fere nobis omnibus nomen auditum, Atyanas pugil, Olympionices? hoc est apud Graecos, quoniam de eorum gravitate dicimus, prope majus et gloriosius quam Romae triumphasse.—At neminem cepisti.—Quam

in Italia navigaret?] This of course must mean about the coasts of Italy. At the time when Flaccus was requiring rowers, men for the fleet from the Asiatic states, "we were spending 'ter' and 'quadragies' on the fleet of the Hadriatic and the Tuscan sea."

erogabamus?] '*erogabamus*, P. Manutius (a. 1554): *rogabamus*, S. T. A.' (Baiter). Gruter maintains that 'rogabamus' is right, and we must supply 'populum.' He says that we must not admit Lambinus' 'erogabamus,' for it is a conjecture of Turnebus. It appears however that we owe it to P. Manutius. Did Lambinus suppose that he got it from Turnebus, the man whom he accuses of stealing from himself? (Vol. I. In Verr. ii. 4. c. 53.)

postero anno?] In B.C. 61. This is the reading of 'duo codd. Lagom.' (Baiter). The other reading is 'postremo anno.'

Ptolemaeum] The king of Egypt Ptolemaeus Auletes, who became king in B.C. 81; but the history of the early part of his reign is unknown.—'Cretam Metelli:' see Pro Murena, c. 35.

Cn. Domitii,] Cn. Domitius Calvinus, afterwards consul B.C. 53.

Adramytenus] Adramytium or Adramyttium (there are other ways of writing the name), was a town of Mysia at the head of the bay called after it, and on the river Caicus. Phlegon of Tralles, the freedman of the Emperor Hadrian, made a collection of the names of the conquerors at Olympia. Photius (Cod. 97) who gives an extract from it says that he read to the 177th Olympiad. This man could read any thing. He mentions Atyanas the son of Hippocrates of Adramyttium; but he was victorious in the περίοδος, or in the games at the four festivals Olympian, Nemean, Isthmian, Pythian, for so the word 'periodos' is explained.

de eorum gravitate] He is sarcastic on the Greeks as usual. He has been speaking all along of their 'levitas.'

multi orae maritimae clarissimi viri praefuerunt, qui quum praedonem nullum cepissent mare tamen tutum praestiterunt? Casus est enim in capiendo, locus, eventus, occasio: defendendi facilis est cautio, non solum latibulis occultorum locorum, sed etiam tempestatum moderatione et conversione. XIV. Reliquum est ut quaeratur utrum ista classis cursu et remis an sumptu tantum et litteris navigarit. Num id igitur negari potest, cujus rei cuncta testis est Asia, bipartito classem distributam fuisse ut una pars supra Ephesum, altera infra Ephesum navigaret? Hac classe M. Crassus, vir amplissimus, ab Aeno in Asiam, his navibus Flaccus ex Asia in Macedoniam navigavit. In quo igitur praetoris est diligentia requirenda? In numero navium et in descriptione aequabili sumptus? Dimidium ejus quo Pompeius erat usus imperavit. Num potuit parcius? Descripsit autem pecuniam ad Pompeii rationem, quae fuit accommodata L. Sullae descriptioni; qui quum omnes Asiae civitates pro portione in provincia descripsisset, illam rationem in imperando sumptu et

14. *cursu et remis*] Whether a fleet was really equipped and sailed on the sea, or was only paid for and existed in name. We see from what follows how the fleet was employed. It conveyed M. Crassus, 'vir amplissimus,' from Aenus on the coast of Thrace into Asia. This was M. Crassus, the rich, the man who afterwards perished in Mesopotamia. Plutarch (Pompeius, c. 43) says that when Pompeius was returning victorious from the East, and people were expecting that "a monarchy would be firmly established, Crassus taking his sons and his money secretly got away from Rome, whether it was that he was really afraid, or, what is more probable, he wished to give credibility to the calumny and to strengthen the odium against Pompeius." Crassus went abroad as a private person, but so great a man could have the use of a provincial fleet. In modern times petty princes sometimes sail at other people's cost in the vessels of another state. There is no connexion intended between the voyage of Flaccus and that of Crassus. Cicero merely wishes to prove that there was a fleet, which Crassus used, and Flaccus went to Macedonia in.

L. Sullae descriptioni;] This is the arrangement which Sulla made when he entered Asia B.C. 84 (Vol. II. THE PROVINCE ASIA). Cicero says in the letter to his brother Quintus: "Nomen autem publicani aspernari non possunt, qui pendere ipsi vectigal sine publicano non potuerunt, quod iis aequaliter Sulla descripserat" (Ad Q. Fr. i. 1. 11).

pro portione] κατὰ λόγον, as the Greeks say. The 'summa,' the amount of the money, was not yet made up. Faernus says that some MSS. have 'in provinciis.' Six Lagomarsini MSS. and three Oxford have 'in provincia.' S. T. A. F. have 'in provincias,' which nobody has been able to explain. Graevius had no doubt that 'in provincia' was the reading, unless we should erase 'in provincias,' which Mommsen also, as Baiter says, supposes to be a glossema. But the true expression is 'describere pecuniam,' not 'describere civitates;' and the text cannot be considered as restored. Lambinus, who proposed to read 'qui quum in omnes Asiae civitates pro portione pecuniam descripsisset,' saw the meaning.

Faernus has the following note on 'descripsisset:' "unus liber pro *descripsisset*, *discripsisset*: quod verbum usurpat Terentius in Phormione:

> 'Quodne ego discripsi porro illis quibus debui?'

nam ita in antiquis legitur et Donato." The reading is now 'perscripsi' in some editions of Terence (Phormio, v. 7), but others have 'discripsi.' Baiter makes no mention of the reading 'discripsisset' in Cicero. The editors have resolved to destroy this word; and yet it ought to be restored in many passages. But I seldom find any trace of its existence in the various readings which they give (See Vol. I. Index, 'Discribere').

Pompeius et Flaccus secutus est. Neque est adhuc tamen ea summa completa.—Non refert vero.—Quid lucretur? Quum enim onus imperatae pecuniae suscipit, id quod tu crimen esse vis confitetur. Qui igitur probari potest in ea pecunia non referenda crimen sibi ipsum facere, in qua crimen esset nullum, si referret? At enim negas fratrem meum, qui L. Flacco successerit, pecuniam ullam in remiges imperasse. Equidem Quinti fratris mei laude delector; sed aliis magis, gravioribus atque majoribus. Aliud quiddam statuit, aliud vidit. Existimavit, quocumque tempore auditum quid esset de praedonibus, quam vellet subito classem se comparaturum. Denique hoc primus frater meus in Asia fecit ut hoc sumptu remigum civitates levaret. Crimen autem tum videri solet, quum aliquis sumptus instituit eos qui antea non erant instituti, non quum successor aliquid immutat de institutis priorum. Flaccus quid alii postea facturi essent scire non poterat; quid fecissent videbat.

XV. Sed quoniam de communi totius Asiae crimine est dictum, aggrediar jam ad singulas civitates; ex quibus sit sane nobis prima civitas Acmonensis. Citat praeco voce maxima legatos Acmonenses. Procedit unus Asclepiades. Prodeant ceteri. Etiamne praeconem mentiri coegisti? est enim, credo, is vir iste ut civitatis nomen sua auctoritate sustineat; damnatus turpissimis judiciis domi, notatus litteris publicis: cujus de probris, adulteriis ac stupris exstant Acmonensium litterae; quas ego non solum propter longitudinem, sed etiam propter turpissimam obscenitatem ver-

Non refert vero.] Baiter points it thus: 'Non refert. Vero: quid lucretur?' Other changes have been proposed. Mommsen's 'Non refertur. Eo quid,' &c. is very bad. I do not know if 'vero' can be used as Baiter intends it to be. T. has 'vere,' and S. has 'ergo.' 'Non refert' is the objection of the prosecutor: "he gives in no account of the money." Cicero answers, "What could he gain by it if he did? For when he submits to the responsibility of having imposed this contribution, he confesses that which you would make a charge against him. How then can it be maintained that by giving no account of this money he furnishes a charge against himself, when there would have been no matter for a charge if he had accounted for it?" If Flaccus had brought this money into account, of course the charge of not bringing it into account could not have been made. But that was a charge against him: 'non refert.' The charge was not misappropriation of the money, but the imposing of the contribution and giving no account of it. Of course the prosecutor meant that he imposed the contribution in order to get the money for himself; and the charge of misappropriation was to be inferred from the fact of not bringing the money into account. Cicero's answer is sophistical.—'onus,' P. T. F.; 'genus,' Baiter, which is in some editions.

15. *aggrediar jam ad*] "Ne diutius oratione mea suspensa exspectatio vestra teneatur, aggrediar ad crimen" (Pro Cluentio, c. 3, Vol. II.).

Acmonenses.] Acmonia was a town in Phrygia. It was on the road from Dorylaeum to Philadelphia. The site is doubtful. There are coins of Acmonia. The Greek ethnic name is Ἀκμονεὺς on the coins.—'Prodeant ceteri:' 'ceteri' is only in F., according to Baiter; and so says Faernus. Baiter omits it.

borum praetereundas puto. Dixit publice datum drachmarum CCVI. Dixit tantum: nihil ostendit, nihil protulit: sed adjunxit id, quod certe, quoniam erat domesticum, docere debuit, se privatim drachmarum CCVI millia dedisse. Quantum sibi ablatum homo impudentissimus dicit, tantum numquam est ausus ut haberet optare. Ab A. Sextilio dicit se dedisse et a suis fratribus. Potuit dare Sextilius; nam fratres quidem consortes sunt mendicitatis. Audiamus igitur Sextilium: fratres denique ipsi prodeant: quam volent impudenter mentiantur, et quod numquam habuerint dedisse se dicant; tamen aliquid fortasse coram producti dicent in quo reprehendantur. Non deduxi, inquit, Sextilium. Cedo tabulas.—Non deportavi.—Fratres saltem exhibe.—Non denuntiavi.—Quod ergo unus Asclepiades, fortuna egens, vita turpis, existimatione damnatus, impudentia atque audacia fretus, sine tabulis, sine auctore jecerit, id nos quasi crimen aut testimonium pertimescemus? Idem laudationem, quam nos ab Acmonensibus Flacco datam proferebamus, falsam esse dicebat. Cujus quidem laudationis jactura exoptanda nobis fuit. Nam ut signum publicum inspexit praeclarus iste auctor suae civitatis, solere suos cives ceterosque Graecos ex tempore quod opus sit obsignare dixit. Tu vero tibi habeto istam laudationem; nec enim Acmonensium testimonio Flacci vita et dignitas nititur. Das enim mihi, quod haec caussa maxime postulat, nullam gravitatem, nullam constantiam, nullum firmum in Graecis hominibus consilium, nullam denique esse testimonii fidem. Nisi vero hactenus ista formula testimonii atque orationis tuae describi ac distingui potest, ut Flacco absenti aliquid civitates tri-

publice datum] This is the reading of S. T. A. The man said that this sum of money was given by the Acmonenses, and of course to Flaccus. Asclepiades said that he gave something himself to Flaccus; but the numbers are probably corrupt. He paid it through Sextilius, 'ab A. Sextilio.' Sextilius, perhaps a 'negotiator,' was his agent in the matter. See c. 19, "a quaestore." But the man neither brought Sextilius as a witness; nor did he give notice (non denuntiavi) to the other brothers to appear.

consortes] The brothers were all beggars, 'partners in beggary.' See Vol. I. Verr. ii. 3. c. 23.

quam volent impudenter] A usual order of words in Cicero. See Vol. I. Index, Quam.

laudationem,] The 'laudatio' or public testimony of the Acmonenses was sealed with the town seal (see Vol. I. Verr. ii. 4. c. 63). Cicero calls him 'praeclarus auctor suae civitatis,' for he declared that his countrymen would lie on any occasion. 'Auctor' is here the same as 'defender.' 'Ex tempore' is the same thing as 'temporis caussa,' just as suits the occasion; not honestly, for that would be not for one occasion, but always.

describi ac distingui] I do not know what 'describi' means, unless it simply means 'described.' But there is no sense in that. The meaning of 'distingui' is clear. There were two things before the court, the written and sealed testimonial of the Acmonenses, and Asclepiades' declaration that the Greeks would put their seal to any thing. The words of the 'laudatio' and the words of Asclepiades so far as this may be written down, taken down, and marked: the town was said to have given a testimo-

buisse dicantur, Laelio praesenti, per se agenti, vi legis, jure accusationis, opibus praeterea suis terrenti ac minanti, nihil temporis caussa scripsisse aut obsignasse videantur. XVI. Equidem in minimis rebus saepe res magnas vidi, judices, deprehendi ac teneri, ut in hoc Asclepiade. Haec quae est a nobis prolata laudatio obsignata erat creta illa Asiatica, quae fere est omnibus nota nobis, qua utuntur omnes non modo in publicis, sed etiam in privatis litteris, quas quotidie videmus mitti a publicanis saepe uni cuique nostrum. Neque enim testis ipse signo inspecto falsum nos proferre dixit, sed levitatem totius Asiae protulit, de qua nos et libenter et facile concedimus. Nostra igitur laudatio, quam ille temporis caussa nobis datam dicit, datam quidem confitetur, consignata creta est: in illo autem testimonio, quod accusatori dicitur datum, ceram esse vidimus. Hic ego, judices, si vos Acmonensium decretis, si ceterorum Phrygum litteris permoveri putarem, vociferarer et quantum maxime possem contenderem: testarer publicanos, excitarem negotiatores, vestram etiam scientiam implorarem: cera deprehensa confiderem totius testimonii fictam audaciam manifesto comprehensam atque oppressam teneri. Nunc vero non insultabo vehementius, nec volitabo in hoc insolentius, neque in istum nugatorem, tamquam in aliquem testem, invehar, neque in toto Acmonensium testimonio, sive hic confictum est, ut apparet, sive missum domo est, ut dicitur, commovebor. Etenim quibus ego laudationem istam remittam, quoniam sunt, ut Asclepiades dicit, leves, horum testimonium non pertimescam.

XVII. Venio nunc ad Dorylensium testimonium, qui producti tabulas se publicas ad speluncas perdidisse dixerunt. O pastores nescio quos cupidos litterarum, siquidem nihil istis praeter litteras abstulerunt. Sed aliud esse caussae suspicamur, ne forte isti parum versuti esse videantur. Poena est, ut opinor, Dorylai gravior quam apud alios falsarum et corruptarum litterarum. Si veras

nial in favour of Flaccus in his absence, and must be considered as having given no testimony to help the prosecutor though he demanded it with threats.

16. *creta illa*] Some kind of plastic earth, supposed to be the same as the γῆ σημαντρίς mentioned by Herodotus (ii. 38). A Cimolia creta is also mentioned, which was used by fullers. The 'cera' or Roman wax on the other 'laudatio' was an evidence of fraud, as Cicero wishes us to conclude.

17. *Dorylensium*] The name is Δορύλαιον in Strabo; and the ethnic name is Δορυλαεύς. It was a town of Phrygia in a large plain and in a sheep-feeding country. It is represented by the modern town of Eski-shehr which joins the Pursek or ancient Thymbres. The men said they had lost the writings sent by their community, and lost them 'ad speluncas.' I can only guess what Cicero means, and others may do the same. The Scholiast says: "veri simile non esse ut incursu latronum tabulas in itinere perdiderint; quum soleant non hoc genus praedae, sed alia captare."

protulissent, criminis nihil erat: si falsas, erat poena. Bellissimum putaverunt dicere amissas. Quiescant igitur, et me hoc in lucro ponere atque aliud agere patiantur. Non sinunt. Supplet enim iste nescio quis, et privatim dicit se dedisse. Hoc vero ferri nullo modo potest. Qui de tabulis publicis recitat iis, quae in accusatoris potestate fuerunt, non debet habere auctoritatem; sed tamen judicium fieri videtur, quum tabulae illae ipsae cuicuimodi sunt proferuntur. Quum vero is quem nemo vestrum vidit umquam, nemo qui mortalis esset audivit, tantum dicit, DEDI, dubitatis, judices, quin ab hoc ignotissimo Phryge nobilissimum civem vindicetis? Atque huic eidem nuper tres equites Romani honesti et graves, quum in caussa liberali eum qui asserebatur cognatum suum esse diceret, non crediderunt. Qui hoc evenit, ut, qui locuples testis doloris et sanguinis sui non fuerit, idem sit gravis auctor injuriae publicae? Atque hic Dorylensis nuper quum efferretur magna frequentia consessuque vestro, mortis illius invidiam in L. Flaccum Laelius conferebat. Facis injuste, Laeli, si putas nostro periculo

in lucro ponere] 'To put it to my profit,' to reckon as so much on our side. Horace says "adpone lucro." So Terence (Phormio, ii. 3. 16) says:

"Quidquid praeter spem eveniet, omne id deputabo esse in lucro."

in accusatoris potestate] The value of written evidence depends on the hands out of which it comes. If these 'tabulae publicae' were in the hands of the prosecutor, he might have altered them or forged others, if there was no check on him. Cicero adds: "but still there is some show of a trial, when these written documents themselves, such as they may be, are produced." But when a man of whom we know nothing says, 'I gave the men evidence' in writing, that is nothing at all.—'cuicuimodi,' Schütz. Baiter has 'cujuscunquemodi,' from Lambinus. S. T. A. have 'cujuscemodi,' and F. has 'cujusque modi.' We know that 'cuicuimodi' will do. See Vol. I. Verr. ii. 5. c. 41.—'dubitatis:' 'dubitabitis,' Baiter.

caussa liberali] A case in which a man's freedom was in question. See Vol. I. Divin. c. 17. The Roman equites who sat as Recuperatores in this case, did not believe the man's evidence.—A 'locuples testis' is a credible witness. (Vol. I. Index.) Baiter has, 'Qui hoc convenit,' the conjecture of Gulielmius, and a good one. But I suppose that all the MSS. have 'evenit,' and I see no difficulty in it. 'Quod minime convenit' is appropriately used in c. 19.

efferretur] 'Haec ferertur,' V. Baiter does not say what the rest have. He quotes 'eeferretur' as on the authority of Lambinus. Faernus also has 'ecferretur.' All the MSS. have 'consensu' in place of 'consessu.' It seems that the man died suddenly in court, and was carried out. In Terence (Andria i. 1, 90) there is

"Effertur: imus."

I do not see what Cicero means by his frigid joke, 'qui arborem numquam vidisset.' There is a reading 'arborem fici.' The man came from Phrygia, part of which was a treeless country, and hence called Axylos. Laelius threw him a basket of figs, as one would throw them to a hog, and he ate them like a hog. Klotz informs us that a man who was not accustomed to eating figs, should have been careful in his use of them. Perhaps they were dried, hard figs; for as to fresh figs, the learned commentator may be assured that he may eat his fill of them without any danger. The Scholiast, a man of taste, says this is very fine: "valde summa cum festivitate discussit inridens veneni criminationem, quod hic videretur unus de numero accusatorum Flacci repentina morte defunctus. Causa interposita est aviditatis et intemperantiae barbari hominis, quem poma inusitata distenderint."

vivere tuos contubernales, praesertim quum tua negligentia factum arbitremur: homini enim Phrygi qui arborem numquam vidisset fiscinam ficorum objecisti, cujus mors te ex aliqua parte relevavit; edacem enim hospitem amisisti. Flacco vero quid profuit? qui valuit tamdiu dum huc prodiret, mortuus est aculeo jam dimisso ac dicto testimonio. At istud columen actionis tuae, Mithridates, posteaquam biduum retentus testis a nobis effudit quae voluit omnia, reprehensus, convictus fractusque discessit, ambulat cum lorica: metuit homo doctus et sapiens ne L. Flaccus nunc se scelere alliget, quum jam testem illum effugere non possit; ut, qui ante dictum testimonium sibi temperarit, quum tamen aliquid assequi posset, is nunc id agat ut ad falsum avaritiae testimonium verum maleficii crimen adjungat. Sed de hoc teste totoque Mithridatico crimine disseruit et subtiliter et copiose Q. Hortensius: nos, ut instituimus, ad reliqua pergamus.

XVIII. Caput est omnium Graecorum concitandorum, qui cum accusatoribus sedet, Heraclides ille Temnites, homo ineptus et loquax, sed, ut sibi videtur, ita doctus ut etiam magistrum illorum se esse dicat, et qui ita sit ambitiosus ut omnes vos nosque quotidie persalutet. Temni usque ad illam aetatem in senatum venire non potuit; et qui se artem dicendi traditurum etiam ceteris profiteatur, ipse omnibus turpissimis judiciis convictus est. Pari felicitate una legatus venit Nicomedes, qui neque in senatum ulla conditione pervenire potuit et furti et pro socio damnatus est. Nam princeps legationis, Lysanias, adeptus est ordinem senatorium; sed quum rem publicam nimium amplecteretur, peculatus damnatus et bona et senatorium nomen amisit. Hi tres etiam aerarii nostri

dimisso] T. A. There is also 'demisso,' and 'emisso.' It matters not which we take. The man had dropped his sting, his lying declaration, and he was gone; the best thing that could happen for Laelius.

At istud] 'Ut istud,' Baiter. Horace (Carm. ii. 17) has

"Grande decus columenque rerum."

In place of 'actionis' Baiter has 'accusationis' on the authority of V. It makes no difference for the sense.

Q. Hortensius:] We learn that Cicero and Hortensius were on the same side in this case, as they often were.

18. *Temnites,*] He was from Temnus, a town in Mysia, on the Hermus. There are coins of Temnus. He was an impertinent, officious fellow (ambitiosus), who thought to make himself agreeable by his importunity.

et qui] Baiter has 'dicat. At qui ita sit .. . persalutet, Temni,' which is his own. It is easy to see why he has altered the text.—'convictus:' 'victus,' V., Baiter.

furti et pro socio] According to Roman usage, the consequence would be Infamia. (Vol. II. Pro P. Quintio, c. 15.)

amplecteretur,] He clung too close to the public weal, for he stole the public money, and was convicted of Peculatus. These three rogues would make it appear that even the accounts of the Roman 'aerarium' were false, for they declared to the treasury that they had nine slaves, and yet they had not one. The object of this lie was to have the slaves' cost allowed by the 'aerarium,' as Sylvius says.

tabulas falsas esse voluerunt; nam servos novem se professi sunt habere, quum omnino sine comite venissent. Decreto scribendo primum video affuisse Lysaniam; cujus fratris bona, quod [is] populo non solvebat, praetore Flacco publice venierunt. Praeterea Philippus est, Lysaniae gener, et Hermobius, cujus frater Poles item pecuniae publicae est condemnatus. XIX. Dicunt se Flacco et iis qui simul essent drachmarum xv millia dedisse. Cum civitate mihi res est acerrima et conficientissima litterarum, in qua nummus commoveri nullus potest sine quinque praetoribus, tribus quaestoribus, quattuor mensariis, qui apud illos a populo creantur. Ex hoc tanto numero deductus est nemo; et quum illam pecuniam nominatim Flacco datam referant, majorem [etiam] aliam quum huic eidem darent, in aedem sacram reficiendam se perscripsisse dicunt; quod minime convenit. Nam aut omnia occulte referenda fuerunt aut aperte omnia. Quum perscribunt Flacco nominatim, nihil timent, nihil verentur; quum operi publico referunt, iidem homines subito eundem quem contempserant pertimescunt. Si praetor dedit, ut est scriptum, a quaestore numeravit, quaestor a mensa publica, mensa aut ex vectigali aut ex tributo. Numquam erit istuc simile criminis, nisi hanc mihi totam rationem omni et personarum genere et litterarum explicaris. Vel quod est in eodem decreto scriptum,

populo non solvebat,] He was a debtor to his state some way, and as he did not pay, he was sold up during Flaccus' praetorship, and as we may assume by Flaccus' order, or with his consent; and so he would be the praetor's enemy. Cicero looking at the documents says 'Decreto scribendo primum video affuisse Lysaniam;' the names or 'auctoritates,' as they were called, of those who were present when the instrument was reduced to form were prefixed to it. This was also the Roman fashion in reducing to form the Decreta and Consulta of the senate.

19. *qui simul essent*] See Pro Sulla, c. 7.—'conficientissima litterarum,' most careful in its money accounts; and so it appears. They knew their own knavery, and took care that none of themselves could lay hold of the public money.—'deductus est nemo:' none of them was brought as a witness to Rome. See c. 15: "non deduxi, inquit, Sextilium."—'commoveri:' 'moveri nullus,' S. A. Compare Pro Fonteio, c. 5: "nummus in Gallia nullus sine civium Romanorum tabulis commovetur." The Romans often used 'movere' in this sense, as in the letters to Atticus (i. 12): "A Caecilio propinqui minore centesimis nummum movere non possunt."

huic eidem] Faernus, in place of 'huic idem' or 'huic iidem.'

perscripsisse] This means the entry in the public books. Cicero's argument is this: No public money can be paid at Temnus except with the strictest form. If they entered one sum of money with great exactness and set it down as applied to a public work (operi publico referunt), why did they not do so with the other? When they enter a sum of money as paid to Flaccus on his account (nominatim), they use no precautions; a single praetor, as they say, paid it. When they enter the money as paid to Flaccus for a public purpose, they then show their fear of the man, of whom before they had none (quem contempserant), by using all the precautions that their law required.

a quaestore] He paid it through the quaestor (ταμίας). He gave an order to the quaestor; the quaestor gave an order on the public treasurer or banker (τραπεζίτης), and he could only get the money either from the 'vectigal' or the 'tributum.'

homines clarissimos civitatis, amplissimis usos honoribus hoc praetore circumventos, cur hi neque in judicio adsunt neque in decreto nominantur? non enim credo significari isto loco illum qui se erigit Heraclidem. Utrum enim in clarissimis est civibus is quem judicatum hic duxit Hermippus? qui hanc ipsam legationem quam habet non accepit a suis civibus, sed usque Tmolo petivit? cui nullus honos in sua civitate habitus est umquam; res autem ea quae tenuissimis committebatur, huic una in vita commissa sola est. Custos T. Aufidio praetore in frumento publico est positus, pro quo quum a P. Varinio praetore pecuniam accepisset, celavit suos cives ultroque iis sumptum intulit. Quod posteaquam Temni litteris a Varinio missis cognitum atque patefactum est, quumque eadem de re Cn. Lentulus, qui censor fuit, Temnitarum patronus, litteras misisset, Heraclidem istum Temni nemo postea vidit. Atque, ut ejus impudentiam perspicere possitis, caussam ipsam, quae levissimi hominis animum in Flaccum incitavit, quaeso, cognoscite. XX. Fundum Cymaeum Romae mercatus est de pupillo Meculonio. Quum verbis se locupletem faceret, haberet nihil praeter illam impudentiam quam videtis, pecuniam sumpsit mutuam a Sex. Stola, judice hoc nostro, primario viro, qui et rem agnoscit neque hominem ignorat; qui tamen credidit P. Fulvii Neratii lectissimi hominis fide. Ei quum solveret, sumpsit a C. M. Fufiis, equitibus Romanis, primariis viris. Hic hercule, cornici oculum, ut dicitur. Nam hunc Hermippum, hominem eruditum, civem suum, cui debebat esse notissimus, percussit; ejus enim fide sumpsit a Fufiis. Securus Hermippus Temnum proficiscitur, quum

una in vita] V. But S. T. A. have 'uni.' Cicero, as Manutius observes, sometimes uses both 'una' and 'sola.' 'Una' would be enough, but 'sola' makes it more emphatic.

in frumento publico] This appears to be the 'frumentum emptum' (Vol. I. Verr. ii. 3. c. 70), for it was paid for. The man got the money, and kept it, for I suppose we must so explain 'celavit suos cives;' and he went further (ultro); he imposed some costs and charges on them. Cicero does not say what they were. The Scholiast says: "Id est, etiam erogationem sumptus imputavit."

20. *Fundum*] Cyme (Κύμη) was one of the old Aeolian towns north of the Hermus. The site is supposed to have been near a place named Sanderli or Sandarlio, and near a stream called Xanthus, as some of the ancient coins of Cyme show.

pupillo Meculonio.] 'Publio Meculonio,' Baiter, following Ursini. Pantagathus proposed 'M. Aculeone.'—'Sex. Stola:' 'Sex. Stloga,' Baiter. The name is uncertain.—'Ei quum solveret:' Heraclides paid Stola by borrowing from the Fufii. He changed his creditor and got Hermippus to be his security. Here, says Cicero, is the old proverb about the crow's eye, for he got a man to be his security, who knew him well. He pecked out his eye. (See Pro Murena, c. 11.) Macrobius (Sat. vii. 5) quotes the proverb and helps to explain it: "ut suis telis lingua violenta succumbat, et Graecus Graeco eripiat hunc plausum, tanquam cornix cornici oculos effodiat." Klotz says that Freund in his Lexicon very appropriately quotes the German proverb: "Eine Krähe hackt der anderen die Augen nicht aus." The English proverb is the same, and generally known.

iste se pecuniam quam hujus fide sumpserat a discipulis suis diceret Fufiis persoluturum. Habebat enim rhetor iste adolescentes quosdam locupletes, quos dimidio redderet stultiores quam acceperat: neminem quidem adeo infatuare potuit ut ei nummum ullum crederet. Itaque quum Roma clam esset profectus, multosque minutis mutuationibus fraudavisset, in Asiam venit, Hermippoque percontanti de nomine Fufiano respondet se omnem pecuniam Fufiis persolvisse. Interim neque ita longo intervallo libertus a Fufiis cum litteris ad Hermippum venit: pecunia petitur ab Hermippo. Hermippus ab Heraclide petit: ipse tamen Fufiis satisfacit absentibus et fidem suam liberat: hunc aestuantem et tergiversantem judicio ille persequitur: a recuperatoribus caussa cognoscitur. Nolite existimare, judices, non unam et eandem omnibus in locis esse fraudatorum et infitiatorum impudentiam: fecit eadem omnia quae nostri debitores solent. Negavit sese omnino versuram ullam fecisse Romae: Fufiorum se affirmavit numquam omnino nomen audisse: Hermippum vero ipsum, pudentissimum atque optimum virum, veterem amicum atque hospitem meum, splendidissimum atque ornatissimum civitatis suae, probris omnibus maledictisque vexavit. Sed quum se homo volubilis quadam praecipiti celeritate dicendi in illa oratione jactaret, repente testimoniis Fufiorum nominibusque recitatis, homo audacissimus pertimuit, loquacissimus obmutuit. Itaque recuperatores contra istum rem minime dubiam prima actione judicaverunt. Quum judicatum non faceret, addictus Her-

quam acceperat:] After these words there are generally printed 'ubi nihil possent discere nisi ignorantiam litterarum.' Ursini remarked that these words were wanting in the Vatican MS. The Scholium (B.) on the passage is this: "inludit personae rhetoris imperiti, hanc eruditionem discipulorum fuisse in ejus schola dicens, ut in ea nihil aliud disceretur praeter ignorantiam litterarum;" which looks like an explanation of the text, though no explanation is wanted. But the words are in S. T. F. A.

infatuare] Cicero uses this word in Philipp. iii. c. 9.—'neminem tamen,' V., Baiter.

mutuationibus] 'Aes mutuum' is borrowed money. Cicero uses 'mutuationes' several times: "Qui me ea poena multaverit, quam sine mutuatione et sine versura possem dissolvere" (Tusc. i. c. 42). The rogue was the very man whom we often see now-a-days. He borrowed various small sums, and was off.

satisfacit] Hermippus did what a surety may often expect to have to do. He paid the principal's debts, and thereby acquired a right of action against him for the recovery of what he had paid. "Si quis autem fidejussor pro reo solverit, ejus recuperandi caussa habet cum eo mandati judicium" (Justin. Inst. iii. 20, 6; Dig. 17. 1. 10. § 11).

recuperatoribus] Index, Vol. I.—'infitiatorum:' see In Cat. ii. c. 10, note.

versuram] See Pro Fonteio, c. 5; and Vol. I. Verr. ii. 2. c. 76, note on 'versuram.'

prima actione] There was no adjournment.—'judicatum non faceret:' he did not pay the debt and he was handed over to Hermippus who took him off. See Pro Ros. Com. c. 14; and Pro Quintio, c. 30.

addictus] The Lex Poetelia (B.C. 326; Livy, viii. 28) declared that no debtor should be put in chains; but the 'addictio' still continued, as this passage shows, and other passages (Liv. 23. c. 14; Sall. Cat. c. 33; Cicero, De Oratore, ii. 63). But after the Lex Poetelia personal execution and the condition which was a consequence of the

mippo et ab hoc ductus est. XXI. Habetis et honestatem hominis et auctoritatem testimonii et caussam omnem simultatis. Atque is ab Hermippo missus, quum ei pauca mancipia vendidisset, Romam se contulit: deinde in Asiam rediit, quum jam frater meus Flacco successisset, ad quem adiit caussamque ita detulit; recuperatores vi Flacci coactos et metu falsum invitos judicavisse. Frater meus pro sua aequitate prudentiaque decrevit, ut, si judicatum negaret, in duplum iret; si metu coactos diceret, haberet eosdem recuperatores. Recusavit, et, quasi nihil esset actum, nihil judicatum, ab Hermippo ibidem mancipia quae ipse ei vendiderat petere coepit. M. Gratidius legatus, ad quem est aditum, actionem se daturum negavit: re judicata stari ostendit placere. Iterum iste, cui nullus esset usquam consistendi locus, Romam se rettulit: persequitur Hermippus, qui numquam istius impudentiae cessit. Petit Heraclides a C. Plotio senatore, viro primario, qui legatus in Asia fuerat, mancipia quaedam, quae se, quum judicatum esset, per vim vendidisse dicebat. Q. Naso, vir ornatissimus, qui praetor fuerat, judex sumitur; qui quum sententiam secundum Plotium se dicturum ostenderet, ab eo judice abiit et, quod judicium lege non

'addictio' are only mentioned in cases of judgment against a debtor for a loan and in the Actio Depensi, which was the case here. In other cases a man's property was taken.

The creditor had to look after his debtor himself, and might keep him till he paid. There was no debtors' prison for the convenience of the creditor. What he would do with the man, I do not know. He must feed him and lodge him. This practice of taking possession of a debtor's person must have been very troublesome; and it went out of fashion, partly because a Lex Julia allowed the debtor to make a Cessio bonorum, something like what an insolvent does in England, and from other circumstances.

The old Roman law of debt, which we have nothing to do with here, is discussed by Savigny, Vermischte Schriften, ii. Das Altrömische Schuldrecht, where he has a remark on this passage; and some further remarks on it, vol. iii. p. 387, Tafel von Heraclea.

21. *vi . . . et metu*] See Vol. I. on the Formula Octaviana.

judicatum negaret,] This must mean, if he disputed the justice of the sentence, for Heraclides did not deny that the Recuperatores had decided against him (falsum . . . judicavisse). If Heraclides would have a new trial, he must pay double, if the judgment should be against him (in duplum iret). 'Dupli sponsionem faceret' (Schol.).

legatus,] We see from this and other passages that a governor could delegate his civil power to 'legati.' Gratidius refused to allow Heraclides an action: it was his pleasure that the 'res judicata' should stand as it was. The action for which he asked was for the recovery of the slaves, which Cicero says he had sold to pay his debt. As the 'legatus' thought that the decision should stand, it appears that this demand for the slaves and the action in which Hermippus had got judgment against Heraclides were in some way connected; but I do not see how.—'judicatus esset,' V. S., Baiter.

persequitur Hermippus,] Klotz observes that Hermippus could have no interest in following him, as Heraclides wanted nothing from him; but Cicero was disposed to treat Heraclides as a runaway.—Cicero does not say why Hermippus followed Heraclides, but he says that he did.

Q. Naso,] See Pro Cluentio, c. 53.—'ab eo judice:' though Naso was 'judex' between the parties, Heraclides 'left him,' gave up the case, which he might do as he was the plaintiff. The 'judicium' was not 'lege,' that is, Heraclides was not bound to wait the result of the 'judicium.' Heraclides saw that Naso was going to decide in favour of Plotius (secundum Plotium).

erat, caussam totam reliquit. Satisne vobis, judices, videor ad singulos testes accedere, neque, ut primo constitueram, tantummodo cum universo genere confligere? Venio ad Lysaniam ejusdem civitatis, peculiarem tuum, Deciane, testem; quem tu, quum ephebum Temni cognosses, quia tunc te nudus delectaverat, semper nudum esse voluisti. Abduxisti Temno Apollonidem: pecuniam adolescentulo grandi foenore, fiducia tamen accepta, occupavisti. Hanc fiduciam commissam tibi dicis: tenes hodie ac possides. Eum tu testem spe recuperandi fundi paterni venire ad testimonium dicendum coegisti: qui quoniam testimonium dixit, quidnam sit dicturus exspecto. Novi genus hominum, novi consuetudinem, novi libidinem. Itaque etsi teneo quid sit dicere paratus, nihil tamen contra disputabo prius quam dixerit. Totum enim convertet atque alia finget. Quamobrem et ille servet quod paravit, et ego me ad id quod attulerit integrum conservabo.

XXII. Venio nunc ad eam civitatem in quam ego multa et magna studia et officia contuli, et quam meus frater in primis colit atque diligit; quae si civitas per viros bonos gravesque homines querelas ad vos detulisset, paullo commoverer magis. Nunc vero quid putem? Trallianos Maeandrio caussam [publicam] commisisse, homini egenti, sordido, sine honore, sine existimatione, sine censu? Ubi erant illi Pythodori, Aetidemi, Lepisones, ceteri homines apud nos noti, inter suos nobiles? ubi illa magnifica et gloriosa ostentatio civitatis? Nonne esset puditum, si hanc caussam agerent severe, non modo legatum, sed Trallianum omnino dici

peculiarem] He says 'peculiaris,' as if the witness belonged to Decianus, and was a part of his 'peculium.' Decianus was one of the prosecutors, and Cicero has some foul abuse ready for him, the meaning of which may be easily guessed.

pecuniam . . . occupavisti.] "You lent money to a youth at high interest, having received however a security." (Vol. I. Verr. ii. 1. c. 36.) 'Fiducia' has a compound notion. The thing is intrusted to the creditor to be restored when the money is paid. The old Roman mortgage was effected by a transfer of the ownership, with a condition that the ownership must be transferred back to the debtor, if he paid the debt within the time agreed on. Decianus said that the time was passed, and that the thing was forfeited, the 'fiducia' was at an end (fiduciam commissam).

testimonium dixit,] 'Testimonium nondum dixit,' Faernus, Baiter, and others. They suppose that 'nondum' is wanted because it appears from what follows that he had not given his evidence. There is no MSS. authority for 'nondum.' I suppose that he had given some testimony somewhere, and testimony contrary to what Cicero expected that he would now give. He says 'Totum enim convertet atque alia finget.' If the text is not sound, still we cannot insert a word at pleasure.

22. *Trallianos*] This Tralles was a rich town of Caria on a branch of the Maeander. The ruins of Tralles are at a place named Ghiuzelhissar.

caussam [publicam]] 'Publicam' is only in B., and it is not wanted; though Klotz remarks that the addition of it gives the words what they have not had before, their proper signification.

Lepisones,] Some corrupt name probably. Baiter has Epigoni.

Maeandrium? Huic illi legato, huic publico testi patronum suum jam inde a patre atque majoribus, L. Flaccum, mactandum civitatis testimonio tradidissent? Non est ita, judices, non est profecto. Vidi ego in quodam judicio nuper Philodorum testem Trallianum, vidi Parrhasium, vidi Archidemum, quum quidem idem hic mihi Maeandrius quasi ministrator aderat, subjiciens quid in suos cives civitatemque si vellem dicerem. Nihil enim illo homine levius, nihil egentius, nihil inquinatius. Quare si hunc habent auctorem Tralliani doloris sui, si hunc custodem litterarum, si hunc testem injuriae, si hunc auctorem querelarum, remittant spiritus, comprimant animos suos, sedent arrogantiam, fateantur in Maeandrii persona esse expressam speciem civitatis. Sin istum semper illi ipsi domi proterendum et conculcandum putaverunt, desinant putare auctoritatem esse in eo testimonio cujus auctor inventus est nemo. XXIII. Sed exponam quid in re sit, ut, quamobrem ista civitas neque severe Flaccum oppugnarit neque benigne defenderit, scire possitis. Erat [ei] Castriciano nomine irata; de quo toto respondit Hortensius: invita solverat Castricio pecuniam jamdiu debitam. Hinc totum odium, hinc omnis offensio. Quo quum venisset Laelius ad iratos, et illud Castricianum vulnus dicendo refricuisset, siluerunt principes, neque in illa contione adfuerunt, neque istius decreti ac testimonii auctores esse voluerunt. Usque eo orba fuit ab optimatibus illa contio ut princeps principum esset Maeandrius; cujus lingua quasi flabello seditionis illa tum est egentium contio ventilata. Itaque civitatis pudentis, ut ego semper existimavi, et gravis, ut ipsi existimari volunt, justum dolorem querelasque cognoscite. Quae pecunia fuerit apud se Flacci patris nomine [collata] a civitatibus, hanc a se esse ablatam queruntur. Alio loco quaeram quid licuerit Flacco: nunc tantum a Trallianis

quasi ministrator] Like one who supplies the gladiators with arms, as they fight; as the Scholiast says.

auctorem . . . doloris] After this comes 'auctorem querelarum.' One explains the other. Klotz in his notes has proposed to corrupt 'auctorem querelarum' into 'actorem querelarum.'

23. *refricuisset,*] See Pro Sulla, c. 6. —'siluerunt:' 'exsiluerunt,' H. Stephanus, from an old codex, or from none at all quite as likely. Klotz is inclined to prefer 'exsiluerunt.'—'Usque adeo,' V., Baiter.

Quae pecunia] The word 'collata' is in F. only, according to Baiter. The money here talked of was a contribution from the states of Asia for celebrating a festival or some public ceremonial in honour of Flaccus' father, who had been governor of the province. The Verria were a Sicilian festival established in honour of Verres (Vol. I. Verr. ii. 4. c. 10); and the Marcellia in honour of Marcellus (Verr. ii. 2. c. 21). The Mucia in Asia were established in honour of an honourable man, Q. Mucius Scaevola. But generally these festivals were the vile flattery of the Greeks. The Roman governors treated the flatterers as they deserved. They often took the money that was subscribed for the festivals, or for some statue. Cicero does not say that Flaccus did not take the money. One may say of Cicero's defence 'Quid hoc impudentius?'

requiro, quam pecuniam a se ablatam queruntur, suamne dicant, sibi a civitatibus collatam in usum suum. Cupio audire.—Non, inquit, dicimus.—Quid igitur?—Delatam ad nos, creditam nobis L. Flacci patris nomine, ad ejus dies festos atque ludos.—Quid tum?—Hanc te, inquit, capere non licuit.—Jam id videro: sed primum illud tenebo; queritur gravis, locuples, ornata civitas, quod non retinet alienum: spoliatam se dicit, quod id non habet quod ejus non fuit. Quid hoc impudentius dici aut fingi potest? Delectum est oppidum, quo in oppido uno pecunia a tota Asia ad honores L. Flacci poneretur. Haec pecunia tota ab honoribus translata est in quaestum et foenerationem, recuperata est multis post annis. Quae civitati facta est injuria? XXIV.—At moleste fert civitas.—Credo. Avulsum est enim praeter spem quod erat spe devoratum lucrum.—At queritur.—Impudenter facit; non enim omnia quae dolemus, eadem queri jure possumus.—At accusat verbis gravissimis.—Non civitas, sed imperiti homines, a Maeandrio concitati. Quo loco etiam atque etiam facite ut recordemini, quae sit temeritas multitudinis, quae levitas propria Graecorum, quid in contione seditiosa valeat oratio. Hic, in hac gravissima et moderatissima civitate, quum est forum plenum judiciorum, plenum magistratuum, plenum optimorum virorum et civium, quum speculatur atque obsidet rostra vindex temeritatis et moderatrix officii curia, tamen quantos fluctus excitari contionum videtis? Quid vos fieri censetis Trallibus? An id quod Pergami? Nisi forte hae civitates existimari volunt facilius una se epistola Mithridatis moveri impellique potuisse, ut amicitiam populi Romani, fidem suam, jura omnia officii humanitatisque violarent quam ut filium testimonio laederent, cujus patrem armis pellendum a suis moenibus censuissent. Quare nolite mihi ista nomina civitatum nobilium opponere. Quos enim hostes haec familia contempsit, numquam eosdem testes pertimescet. Vobis autem est confitendum, si consiliis principum vestrae civitates reguntur, non multitudinis temeritate, sed optimatum consilio bellum ab istis civitatibus cum populo Romano esse susceptum: sin ille tum motus est temeritate imperitorum excitatus, patimini

24. *contionum*] 'in contione,' S., Baiter. —'una se epistola:' Pergamum was the head-quarters of King Mithridates during his occupation of the Roman province of Asia. The one letter is the circular sent by Mithridates to the Asiatic states, which was the signal for the massacre of the Italians in Asia. (Vol. II. De Imp. Cn. Pomp.)

cujus patrem] Flaccus' father was consul for the first time with C. Marius B.C. 100; and he was the colleague of Cinna B.C. 86, after Marius' death. Flaccus went to Asia at the head of an army to oppose Mithridates. He was murdered at Nicomedia by his own 'legatus' Fimbria. Flaccus is the man who carried the Lex Valeria, which is mentioned in the oration Pro Fonteio, c. 1.

me delicta vulgi a publica caussa separare. XXV. At enim istam pecuniam huic capere non licuit.—Utrum vultis patri Flacco licuisse necne? Si licuit, sicuti certe licuit, ad ejus honores collatam, ex quibus nihil ipse capiebat, patris pecuniam recte abstulit filius; si non licuit, tamen illo mortuo, non modo filius, sed quivis heres rectissime potuit auferre. Ac tum quidem Tralliani, quum ipsi gravi foenore istam pecuniam multos annos occupavissent, a Flacco tamen omnia quae voluerunt impetraverunt; neque tam fuerunt impudentes ut id quod Laelius dixit dicere auderent, hanc ab se pecuniam abstulisse Mithridatem. Quis enim erat qui non sciret in ornandis studiosiorem Mithridatem quam in spoliandis Trallianis fuisse? Quae quidem a me si, ut dicenda sunt, dicerentur, gravius agerem, judices, quam adhuc egi, quantam Asiaticis testibus fidem habere vos conveniret: revocarem animos vestros ad Mithridatici belli memoriam, ad illam universorum civium Romanorum per tot urbes uno puncto temporis miseram crudelemque caedem; praetores nostros deditos, legatos in vincula conjectos, nominis prope Romani memoriam cum vestigio imperii, non modo ex sedibus Graecorum, verum etiam ex litteris esse deletam. Mithridatem deum, illum patrem, illum conservatorem Asiae, illum Euhium, Nysium, Bacchum, Liberum nominabant. Unum atque idem erat tempus, quum L. Flacco consuli portas tota Asia claudebat, Cappadocem autem illum non modo recipiebat suis urbibus, verum etiam ultro vocabat. Liceat haec nobis, si oblivisci non possumus, at tacere: liceat mihi potius de levitate Graecorum queri quam de

25. *sicuti . . . licuit,*] Here he asserts that Flaccus, the father, could have taken the money which the states subscribed for a festival in his honour. A most impudent assertion, followed by another most impudent conclusion. It was the practice of the Roman governors to take such money, but Cicero made this practice a charge against Verres (Vol. II. Verr. ii. c. 57). The words 'ex quibus ipse nihil capiebat,' mean 'from which honores Flaccus the son got nothing.' But I do not see that Cicero's case gains any thing by the addition of these words.

occupavissent,] See c. 21.—'praetores . . . deditos:' Q. Oppius and M'. Aquilius were given up to Mithridates. (Vol. II. Introd. to the De Imp. Cn. Pompeii.)—'cum vestigio:' Garatoni proposed 'cum vestigiis' or 'cum omni vestigio.'—'ex sedibus:' H. Stephanus found 'ex sedibus' in a MS.: 'ex edibus,' S. T.

deum,] 'demum,' A. F. 'Deum' is perhaps an emendation, but it is found in some of the oldest editions. Baiter writes Euhium and refers to Lachmann's note on Lucretius, v. 743. Plutarch (Sympos. i. 2) says that Mithridates was called Dionysus because he could drink more than any man of his time. In place of 'Dionysium,' the reading of F., Baiter has 'Nysium,' which is the reading of S. T. has 'Nysum.' 'Nysum' or 'Nysium' may have originated, as Graevius supposes, in a repetition of the last part of 'Dionysium.'

The word 'Liberum,' a Latin name, has been objected to, and Lambinus omitted it for that reason.

Cappadocem] A term of reproach for Mithridates, for the Cappadoces were a servile race, and were employed at Rome in some of the lowest offices. The false Cicero has a Cappadocian also (Post Red. in Senatu, c. 6).

crudelitate. Auctoritatem isti habeant apud eos quos esse omnino noluerunt? Nam quoscumque potuerunt togatos interemerunt: nomen civium Romanorum quantum in ipsis fuit sustulerunt. XXVI. In hac igitur urbe se jactant quam oderunt? apud eos quos inviti vident? in ea re publica, ad quam opprimendam non animus eis, sed vires defuerunt? Aspiciant hunc florem legatorum laudatorumque Flacci ex vera atque integra Graecia. Tum se ipsi expendant, tum cum his se comparent, tum, si audebunt, dignitati horum anteponant suam.

Adsunt Athenienses, unde humanitas, doctrina, religio, fruges, jura, leges ortae atque in omnes terras distributae putantur: de quorum urbis possessione propter pulchritudinem etiam inter deos certamen fuisse proditum est: quae vetustate ea est ut ipsa ex sese suos cives genuisse dicatur et eorum eadem terra parens, altrix, patria dicatur: auctoritate autem tanta est ut jam fractum prope ac debilitatum Graeciae nomen hujus urbis laude nitatur. Adsunt Lacedaemonii, cujus civitatis spectata ac nobilitata virtus, non

apud eos quos] "Shall the evidence of such people as these have any weight with those whom they would not even allow to live?" He alludes to the great massacre in Asia in which so many Roman citizens (togati) perished.

26. *expendant,*] 'Weigh themselves.'

"Expende Hannibalem. Quot libras in duce summo
Invenies?" (Juv. Sat. x. 147.)

vera . . . Graecia.] Klotz quotes Pliny (Ep. viii. 24), who says in a letter to Maximus who was sent out as governor of Achaia: "Cogita te missum in provinciam Achaiam, illam veram et meram Graeciam, in qua primum humanitas, litterae, etiam fruges, inventae esse creduntur."

Athenienses,] Lucretius (vi. 1):

"Primae frugiparos fetus mortalibus aegris
Dididerunt quondam praeclaro nomine Athenae,
Et recreaverunt vitam legesque rogarunt."

In another place Cicero says that 'fruges' were first discovered in Sicily (Vol. I. Verr. ii. 4. c. 48, and the note). Triptolemus of Attica first turned the earth with a plough and taught men to cultivate wheat. The story is in Ovid (Met. v. 645) and elsewhere. The origin of the Cerealia is a problem that has employed the diligence of modern writers, as it furnished matter for the imagination of the ancient. Dureau de la Malle has some remarks on it in his Économie Politique des Romains (Patrie des Céréales, vol. ii.).

To Athens are attributed those social institutions which consist in the establishment of law or a fixed rule of life, which is enforced by the power of the state. The Romans however had the merit of giving to law a more complete and practical form.

The great chapter on the glories of Athens is the Panegyricus of Isocrates (c. 4, &c.), where he has the old story of the Auctochthonity of the Athenians (compare Thucydides, i. 2).

possessione] 'Positione,' A. F. But 'possessione' is the right reading. Poseidon and Athena disputed for the possession of Athens, and Athena gave to it her name.

Lacedaemonii,] This is a 'locus communis.' The critics observe that Cicero passes over the changes made by Philopoemen, the commander of the Achaean league. However, as usual, he is speaking 'oratorie' and in general terms. He seldom troubles himself about historical accuracy. Plutarch (Philopoemen, c. 16) says that Philopoemen destroyed the institutions of Lycurgus, but the Lacedaemonians afterwards obtained permission from the Romans to restore things to their former state, as far as it was possible after the ill treatment they had received.

solum natura corroborata, verum etiam disciplina putatur: qui soli toto orbe terrarum septingentos jam annos amplius unis moribus et numquam mutatis legibus vivunt. Adsunt ex Achaia cuncta multi legati, Boeotia, Thessalia; quibus locis nuper legatus L. Flaccus imperatore Metello praefuit. Neque vero te, Massilia, praetereo, quae L. Flaccum militem quaestoremque cognosti: cujus ego civitatis disciplinam atque gravitatem non solum Graeciae, sed haud scio an cunctis gentibus anteponendam dicam; quae tam procul a Graecorum omnium regionibus, disciplinis linguaque divisa, quum in ultimis terris cincta Gallorum gentibus barbariae fluctibus alluatur, sic optimatum consilio gubernatur ut omnes ejus instituta laudare facilius possint quam aemulari. Hisce utitur laudatoribus Flaccus, his innocentiae testibus, ut Graecorum cupiditati Graecorum auxilio resistamus.

XXVII. Quamquam quis ignorat, qui modo umquam mediocriter res istas scire curavit, quin tria Graecorum genera sint vere? quorum uni sunt Athenienses, quae gens Ionum habebatur; Aeoles alteri, Dores tertii nominabantur. Atque haec cuncta Graecia, quae fama, quae gloria, quae doctrina, quae plurimis artibus, quae etiam imperio et bellica laude floruit, parvum quemdam locum, ut scitis, Europae tenet semperque tenuit. Asiae maritimam oram bello superatam cinxit urbibus, non ut munitam coloniis [illam

Metello] Here we learn why all these 'laudationes' came from Graecia. Flaccus had served as a 'legatus' of Metellus Creticus, it is said. Cicero says 'Achaia cuncta,' and he then mentions Boeotia and Thessalia as not included in 'Achaia cuncta.' Sigonius assumed that Achaia was formed into a Roman province in B.C. 146, after the conquest of Corinth by Mummius. K. F. Hermann of late years has attempted to show that there is no evidence of the existence of a province Achaia before the time of Augustus. The subject is perplexed, and though there is no direct evidence to support Sigonius' opinion, there are many arguments in favour of it. Cicero however does not call it a Provincia here. It seems to have been under the government of a Propraetor or Proconsul together with Thessalia and Boeotia. Servius Sulpicius was governor of Achaia in B.C. 45 (Cicero, Ad Div. xiii. 26); and Boeotia was within his jurisdiction (Ad Div. iv. 12). Cicero gives us no information of the extent of Achaia as he understood it, but we must assume that it comprised at least Attica and Megaris and the Peloponnesus. The province of Achaia is discussed in Becker's Handbuch, continued by Marquardt, vol. iii.

Massilia,] See Pro M. Fonteio, c. 5. It seems that Flaccus had been a 'quaestor' in the Gallia Provincia. Gulielmius proposed to read 'tribunum militum' in place of 'militem,' and he refers to c. 40. His conjecture is ingenious and probable. Cicero praises the aristocratic constitution of Massilia. The power was in the hands of the 'selecti et principes,' who are the 'optimates' (Cicero, De Re Pub. i. 27, 28). Strabo (p. 179) has some remarks on the constitution of Massilia. This city, which retained its good manners for a long time, was the place where Julius Agricola, the conqueror of Britain, was educated (Tacitus, Agric. c. 4).

27. *curavit,*] Perhaps it should be 'curarit.'—Cicero adopts the usual threefold division of the Hellenic people, Ionians, Aeolians, and Dorians, who occupied the western sea-coast of Asia Minor, where they planted their colonies in the countries called Aeolis, Ionia, and Doris.—'habebatur:' 'habetur,' S., Baiter.—'maritimam:' 'maximam,' S., Baiter.

augeret] sed ut obsessam teneret. Quamobrem quaeso a vobis, Asiatici testes, ut, quum vere recordari voletis, quantum auctoritatis in judicium afferatis, vosmetipsi describatis Asiam; nec quid alienigenae de vobis loqui soleant, sed quid vosmetipsi de genere vestro statuatis memineritis. Namque, ut opinor, Asia vestra constat ex Phrygia, Mysia, Caria, Lydia. Utrum igitur nostrum est an vestrum hoc proverbium, Phrygem plagis fieri solere meliorem? Quid de tota Caria, nonne hoc vestra voce vulgatum est, si quid cum periculo experiri velis, in Care id potissimum esse faciendum? Quid porro in Graeco sermone tam tritum atque celebratum est quam, si quis despicatui ducitur, ut Mysorum ultimus esse dicatur? Nam quid ego dicam de Lydia? Quis umquam Graecus comoediam scripsit, in qua servus primarum partium non Lydus esset? Quamobrem quae vobis fit injuria, si statuimus vestro nobis judicio standum esse de vobis? Equidem mihi jam satis superque dixisse videor de Asiatico genere testium: sed tamen vestrum est, judices, omnia quae dici possunt in hominum levitatem, inconstantiam, cupiditatem, etiamsi a me minus dicuntur, vestris animis et cogitatione comprehendere.

XXVIII. Sequitur auri illa invidia Judaici. Hoc nimirum illud est, quod non longe a gradibus Aureliis haec caussa dicitur. Ob hoc crimen hic locus abs te, Laeli, atque illa turba quaesita est. Scis quanta sit manus, quanta concordia, quantum valeat in contionibus. Summissa voce agam, tantum ut judices audiant. Neque enim desunt qui istos in me atque in optimum quemque incitent; quos ego quo id facilius faciant non adjuvabo. Quum aurum Judaeorum nomine quotannis ex Italia et ex omnibus provinciis

[*illam augeret*]] 'Coloniis [illam gentem], sed ut,' Baiter. S. A. have 'illam gentem:' 'illam generaret,' T.: 'illam augeret,' F. The reading is doubtful.

Asia vestra] 'Your Asia,' the Roman province. See Vol. II. THE PROVINCE ASIA.

Phrygem plagis] This is the proverb, (Suidas, Φρύξ) Φρὺξ *ἀνὴρ πληγεὶς ἄμεινον καὶ διακονέστερος*, which Camerarius has well translated:

> "Phryx fit omnis loris caesus melior atque promptior."

The proverb 'in Care' means that the Car is worth little, and if you have an experiment to try, he is the man to use. The Carians often served as mercenaries. The Greek proverb is *ἐν* Καρὶ *κίνδυνον*. The Mysians were despised. The proverb is *Μυσῶν ἔσχατος*: and there is *Μυσῶν λεία*.

Nam quid] One of Cicero's usual turns. He just mentions the thing, not intending to dwell on it. 'Lydus' a slave plays a chief part, says Cicero, in the Greek comedies, perhaps those of Menander, Diphilus, and Philemon.—'vestro nobis judicio standum esse:' see Pro Sulla, c. 7: "non suo stare judicio."

28. *gradibus Aureliis*] In the Forum Romanum (Pro Cluentio, c. 34). Here the rabble collected: here the Jews were assembled. These men often disturbed Rome by their tumults. The Jews were every where then as they are now.

aurum Judaeorum] The Jews, it is said, used to send gold out of Italy and the provinces to Jerusalem as a gift to the

Hierosolyma exportari soleret, Flaccus sanxit edicto ne ex Asia exportari liceret. Quis est, judices, qui hoc non vere laudare possit? Exportari aurum non oportere, quum saepe antea senatus, tum me consule gravissime judicavit. Huic autem barbarae superstitioni resistere severitatis, multitudinem Judaeorum flagrantem nonnumquam in contionibus pro re publica contemnere gravitatis summae fuit.—At Cn. Pompeius captis Hierosolymis victor ex illo fano nihil attigit.—In primis hoc, ut multa alia, sapienter, quod in tam suspiciosa ac maledica civitate locum sermoni obtrectatorum non reliquit. Non enim credo, religionem et Judaeorum et hostium impedimento praestantissimo imperatori, sed pudorem fuisse. Ubi igitur crimen est? Quoniam quidem furtum nusquam reprehendis, edictum probas, judicatum fateris, quaesitum et prolatum palam non negas, actum esse per viros primarios res ipsa declarat: Apameae manifesto comprehensum ante pedes praetoris in foro expensum est auri pondo centum paullo minus per Sex. Caesium, equitem Romanum, castissimum hominem atque integerrimum: Laodiceae viginti pondo paullo amplius per hunc L. Peducaeum,

temple. So it may be. But I do not suppose that all the gold that the Jews got was sent to be lodged in the temple. The money that came into Rome for the provinces went out again in the way of trade (The Province Asia, Vol. II.); and the Jews have always known the art of laying hold of the precious metals. Cicero speaks of orders being made against the exportation of gold generally. These prohibitions against the exportation of the precious metals are mentioned in the Digest; and the Jews are the men who were most active in exporting it. There is no doubt that they sent away the gold in the way of trade, not to Jerusalem only, but to any place where it was worth more. The Lex Gabinia, which forbade the Provinciales to borrow money at Rome, could have no other object than to prevent the precious metals from being carried out of Italy (Cicero, Ad Att. v. 21).

At Cn. Pompeius] A supposed objection of the prosecutor. Pompeius took Jerusalem, but he did not plunder the temple. Cicero says, he spared it through reasons of policy. Dion Cassius however (37. c. 16, and note of Reimarus), who always tells the worst about every body, says that Pompeius plundered the temple. Josephus says that he entered the holy place and saw what only the priests ought to see. He saw a golden table, and a sacred candlestick, and other things. Though the treasury was full of gold he took none; he was so pious (οὐδενὸς ἥψατο δι' εὐσέβειαν). M. Crassus who came after him was not so pious. He robbed the temple.

judicatum] Pantagathus would have 'indicatum,' which Baiter accepts. 'Judicatum a senatu,' says Manutius.

Apamea] Apamea Cibotus in Phrygia, near Celaenae. The site is now fixed at Denair, which is determined by an inscription which records the erection of a monument by some Roman 'negotiatores' who were resident there. It was a place of great trade, being on the road to Cappadocia. At this time it belonged to the province of Asia. But when Cicero was proconsul of Cilicia, it belonged to his province (Ad Fam. xiii. 67): "Ex provincia mea Ciliciensi, cui scis τρεῖς διοικήσεις Asiaticas attributas fuisse, nullo sum familiarius usus quam Androne, Artemonis filio, Laodicensi." It seems that it was afterwards attached to Asia again.—'Adramyttii:' "post hanc vocem deesse librarum numerum primus vidit Mommsenius" (Baiter).—'Laodiceae:' Laodicea ad Lycum, in Phrygia, near Colossae. The site is Denisli where there are ruins. Many Jews resided here. It was the chief city of a Conventus. (See St. Paul's Ep. to the Colossians, ii. iv.)

judicem nostrum, Adramyttii * per Cn. Domitium legatum. Pergami non multum. Auri ratio constat: aurum in aerario est: furtum non reprehenditur: invidia quaeritur; a judicibus oratio avertitur; vox in coronam turbamque effunditur. Sua cuique civitati religio, Laeli, est, nostra nobis. Stantibus Hierosolymis pacatisque Judaeis, tamen istorum religio sacrorum a splendore hujus imperii, gravitate nominis nostri, majorum institutis abhorrebat: nunc vero hoc magis quod illa gens quid de nostro imperio sentiret ostendit armis; quam cara diis immortalibus esset docuit, quod est victa, quod elocata, quod servata.

XXIX. Quamobrem, quoniam quod crimen esse voluisti, id totum vides in laudem esse conversum, veniamus jam ad civium Romanorum querelas, ex quibus sit sane prima Deciani. Quid tibi tandem, Deciane, injuriae factum est? Negotiaris in libera civitate. Primum patere me esse curiosum. Quousque negotiabere, praesertim quum sis illo loco natus? Annos jam triginta in foro versaris; sed tamen [in] Pergameno. Longo intervallo, si quando tibi peregrinari commodum est, Romam venis: affers faciem novam, nomen vetus, purpuram Tyriam. In qua tibi invideo, quod unis vestimentis tamdiu lautus es. Verum esto: negotiari libet: cur non Pergami, Smyrnae, Trallibus, ubi et multi cives Romani sunt, et jus a nostro magistratu dicitur? Otium te delectat: lites, turba, praetor odio est: Graecorum libertate gaudes. Cur ergo unus tu Apollonidenses, amantissimos populi Romani, fidelissimos socios,

Pergami] Pergamum or Pergamus in Mysia, in the valley of the Caicus, was the capital of the kingdom of Pergamum, which the last king Attalus bequeathed to the Romans. It was a flourishing town in the Roman period, and a commercial city. It was the chief town of a Conventus Juridicus.

in aerario] In the Roman 'aerarium.' All the gold which was seized was accounted for.

elocata,] Pompeius made Judaea tributary, as Cicero says. Graevius affirms that it was not reduced to the form of a Provincia until some years after. But it paid tribute notwithstanding immediately after the conquest of Pompeius in B.C. 63, as Becker concludes from the passages of Josephus (B. J. i. 7, 7, and Antiq. xiv. 4, 4; B. J. i. 7, 6). Ammianus Marcellinus (xiv. 8) has also preserved a notice of Judaea being reduced 'in provinciae speciem' after the capture of Jerusalem. Pompeius took Aristobulus to Rome, and he appeared in the triumph. Hyrcanus his brother was set up as a high priest and ἐθνάρχης, but he had not the political power. The word 'elocata' may mean that the taxes were let by the Censors to the Publicani; but I do not find the word in this sense any where else. 'Servata' is probably corrupt, but it is the MSS. reading. Baiter has 'serva,' the conjecture of Nic. Angelius. Others have proposed 'serva facta.'

29. *illo loco*] He refers to his rank, his high birth; perhaps sarcastically. See c. 30, "honorem majorum tuorum."

unis vestimentis] He appeared always in the same Tyrian purple.

Apollonidenses,] Lambinus wrote 'Apollonidienses,' following the 'libri manuscr.,' as he says, and Baiter also writes 'Apollonidienses.' S. T. A. have 'Apollonienses,' and F. has 'Apollonidenses.' The name of the town Apollonis occurs in c. 32, but the reading there is not certain. There was

miseriores habes quam aut Mithridates, aut etiam pater tuus habuit umquam? Cur his per te frui libertate sua, cur denique esse liberis non licet? Homines sunt tota [ex] Asia frugalissimi, sanctissimi, a Graecorum luxuria et levitate remotissimi, patresfamilias suo contenti, aratores, rusticani: agros habent et natura perbonos, et diligentia culturaque meliores. In hisce agris tu praedia habere voluisti. Omnino mallem, et magis erat tuum si jam te crassi agri delectabant, hic alicubi in Crustumino aut in Capenati paravisses. Verum esto; Catonis est dictum: Pedibus compensari pecuniam. Longe omnino a Tiberi ad Caicum; quo in loco etiam Agamemnon cum exercitu errasset, nisi ducem Telephum invenisset. Sed concedo id quoque: placuit oppidum: regio delectavit: emisses. XXX. Amyntas est genere, honore, existimatione, pecunia princeps illius civitatis. Hujus socrum, mulierem imbecilli consilii, satis locupletem, pellexit Decianus ad sese; et quum illa quid ageretur nesciret, in possessione praediorum ejus familiam suam collocavit: uxorem abduxit ab Amynta praegnantem, quae peperit apud Decianum filiam, hodieque apud Decianum est et uxor Amyntae et filia. Numquid harum rerum a me fingitur, Deciane? Sciunt haec omnes nobiles, sciunt boni viri, sciunt denique nostri homines, sciunt mediocres negotiatores. Exsurge, Amynta: re-

Apollonia in Mysia and also Apollonis. Apollonia was on a height east of Pergamum on the road to Sardis. There was a ridge of hills south of Apollonia; and after crossing the hills and going by the road to Sardis, Thyatira was on the left and Apollonis on the right, distant from Sardis 300 stadia, and the same distance from Pergamum (Strabo, p. 625). The site of Apollonis is uncertain, but it is supposed to be represented by a village named Bullene. The Greek ethnic name is Ἀπολλωνιδης, and the Roman name should be Apollonidensis. In the editions of Pliny (v. c. 30) the name is written Apollonidienses.

Cicero says that Decianus avoided the great towns where the governor often was, and kept himself in those places, where tranquillity was not maintained by the presence of the Romans.

miseriores habes] 'Why do you plague them more than.' The father of this Decianus is supposed to be the man who is mentioned in the oration Pro C. Rabirio, c. 9. There is the following note on Decianus (Schol. Bob. in orat. Pro Flacco, p. 230, ed. Orelli): "Et hic subscriptor fuit Apulaei Deciani filius, jam nuper damnati, quum tr. pl. esset, et in ultionem Apulaei Saturnini nec minus etiam C. Servilii Glauciae multa improbe seditioseque committeret: quam tamen damnationem passus in Pontum se et ad partes Mithridaticas contulit. Quo ipso infamiam generis ejus perstringit orator; ut imitatus quodammodo patrem omnia pro hostibus sentire videatur."

Pedibus compensari] It is not easy to see what old Cato meant, when he said that 'money or profit was compensated by walking.' It is a long way from the Tiber to the Caicus of Mysia, and I suppose that land would be bought there cheaper, but if a man thus gained in money, he must pay in trouble. If we had Cato's saying with the matter to which it applied, we should no doubt readily see the meaning.

Agamemnon] This frigid stuff is explained, as it is said, by the commentary of Eustathius on the Iliad (i. 59), quoted by Manutius. Agamemnon and his men in their invasion of Asia lost the way and got into the country of the Mysian king Telephus, who opposed them and was wounded by Achilles. Telephus had his wound cured by Achilles, and he repaid the service by showing the Greeks the way to Troy.—'emisses:' 'emisse debebas,' as Manutius explains it.

pete a Deciano, non pecuniam, non praedia, socrum denique sibi habeat: restituat uxorem, reddat misero patri filiam. Membra quae debilitavit lapidibus, fustibus, ferro, manus quas contudit, digitos quos confregit, nervos quos concidit, restituere non potest: filiam, filiam, inquam, aerumnoso patri, Deciane, redde. Haec Flacco non probasse te miraris? Cui, quaeso, tandem probasti? Emptiones falsas, praediorum proscriptiones cum mulieribus aperta circumscriptione fecisti. Tutor his [rebus] Graecorum [legibus] ascribendus fuit. Polemocratem scripsisti, mercenarium et administrum consiliorum tuorum. Adductus est in judicium Polemocrates de dolo malo et de fraude a Dione, hujus ipsius tutelae nomine. Qui concursus ex oppidis finitimis undique, qui dolor animorum, quae querela? Condemnatus est Polemocrates sententiis omnibus: irritae venditiones, irritae proscriptiones. Num restituis? Defers ad Pergamenos, ut illi reciperent in suas litteras publicas praeclaras proscriptiones et emptiones tuas. Repudiant, rejiciunt. At qui homines? Pergameni, laudatores tui. Ita enim mihi gloriari visus es laudatione Pergamenorum, quasi honorem majorum tuorum assecutus esses; et hoc te superiorem esse putabas

30. *quaeso,*] This is an emendation of Nic. Angelius. The only MSS. which Baiter cites have 'quasi.'—'praediorum proscriptiones:' notices of sale. Decianus did this in conjunction with the silly women, whom he had deceived. The knavery or fraud (circumscriptio) was manifest. See Pro Ros. Com. c. 8, note on 'circumscriptum.' Cicero often makes a contrast or play on words, as he does here. The 'proscriptiones' were effected 'circumscriptione.'

Tutor his . . . Graecorum] 'Tutor his rebus Graecorum ascribendus,' F. I cannot tell from Baiter what the MSS. have. Faernus says 'ab omnibus fere libris abest dictio *legibus*.' He thought that we should read 'moribus' for 'rebus.' There is no doubt that Cicero intends to say that the women could not sell the lands without the concurrence of some man who represented the Roman Tutor. (Pro Caecina, c. 25, Vol. II.) Klotz quotes Isaeus (*Περὶ τοῦ Ἀριστάρχου κλήρου*, c. 4) as authority for the rule of law at Athens that no woman could make a contract above the value of a medimnus of barley: *ὁ γὰρ νόμος διαῤῥήδην κωλύει παιδὶ μὴ ἐξεῖναι συμβάλλειν μηδὲ γυναικὶ πέρα μεδίμνου κριθῶν.* The rule was not bad.

The sales were declared void (irritae), and the notices for sale also went for nothing. 'Irritus' is a technical word. In a case of buying and selling in the Digest "quaesitum est, an irrita emtio facta esset" (Dig. 18. 5. 10). A Testamentum was 'irritum' in certain cases.

ad Pergamenos,] This was a kind of appeal. Decianus carried the matter to the chief town of the 'conventus' and asked to have the sale registered in the register office of Pergamum (litterae publicae). These towns had register offices (*ἀρχεῖα*) for sales and mortgages. The registration at Pergamum would have confirmed the sale, as we must suppose.—'honorem:' the 'honos' is a Roman magistracy. "Majores tui fuerunt honorati Romae, tu mavis vivere in Asia" (Camerarius).—'consecutus esses,' Klotz, Baiter.

superiorem] Klotz supposes that there had been a dispute between Laelius and Decianus about priority as prosecutors (de constituendo accusatore); and that Laelius was preferred because he had the Smyrnaei on his side; and yet these Smyrnaei had made themselves ridiculous by the honours that they paid to one Castricius who died there; honours greater than the Pergameni paid to P. Scipio Nasica, the Pontifex Maximus, who led the route that killed Ti. Gracchus, and afterwards retired to Pergamum where he died (Plutarch, Ti Gracchus, c. 21). Klotz further supposes that

quam Laelium quod te civitas Pergamena laudaret. Num honestior est civitas Pergamena quam Smyrnaea? Ne ipsi quidem dicunt. XXXI. Vellem tantum haberem otii ut possem recitare psephisma Smyrnaeorum, quod fecerunt in Castricium mortuum: primum, ut in oppidum introferretur; quod aliis non conceditur: deinde, ut ferrent ephebi: postremo, ut imponeretur aurea corona mortuo. Haec P. Scipioni, clarissimo viro, quum esset Pergami mortuus, facta non sunt. At Castricium quibus verbis, dii immortales: Decus patriae, ornamentum populi Romani, florem juventutis appellant. Quare, Deciane, si cupidus es gloriae, alia ornamenta, censeo, quaeras. Pergameni te deriserunt. Quid, tu ludi te non intelligebas quum tibi haec verba recitabant: Clarissimum virum, praestantissima sapientia, singulari ingenio? Mihi crede, ludebant. Quum vero coronam auream litteris imponebant, re vera non plus aurum tibi quam monedulae committebant. Ne tum quidem hominum venustatem et facetias perspicere potuisti? Igitur illi Pergameni proscriptiones quas tu afferebas repudiaverunt. P. Orbius, homo et prudens et innocens, contra te omnia decrevit. In P. Globulum meum necessarium fuisti gratiosior. Utinam

this Castricius may have been the son of M. Castricius, a great negotiator in those parts of Asia, whom Cicero mentions (Ad Att. ii. 7); but there is nothing to be made out of that passage; and not much from the other passage (Ad Att. xii. 28) to which also he refers. Castricius is mentioned in c. 23 of this oration. M. Castricius is also mentioned in the Verrine Orations (Vol. I. Verr. ii. 3. c. 80). This Castricius it seems was carried into the town, to be burnt or buried, which was not the Greek nor the Roman fashion (see the letter of Sulpicius to Cicero on the death of Marcellus, Cicero Ad Fam. iv. 12).

31. *Vellem . . . haberem*] Baiter: 'habere me,' S. A., 'habere,' F.—'primum, ut in oppidum.' The text from 'primum, ut in oppidum' to 'ita scitote, judices, esse cetera' in 33 is omitted by S. T. A. and the other known MSS. The history of the restoration of this part is this: "Chunradus Peutingerus Augustanus in adnotatione ad orationem pro L. Flacco praemissa editioni Cratandrinae hanc lacunam a se expletam esse affirmat his verbis: 'Quum superioribus diebus Hieronymus Rorarius Forojuliensis, non vulgaris eruditionis, apud nos in prandio fuisset et nomismata sua vetusta nobis ostendisset, dedit etiam versus octo vel paulo plus supra quinquaginta, quibus oratio haec Ciceroniana pro Flacco hactenus formis excusa deficiebat: quos addere curavimus'" (Baiter).

aurea corona] The Greeks gave golden crowns to kings and great personages. They placed even a golden crown on the writing which contained their public testimony; but it was only a bit of gold leaf or something of the kind, no more than they would trust to a jackdaw who would run off with it. Camerarius has the following serious note: "monedula est furacissima avis, et inprimis auri argentique, quae mira calliditate aufert ereptam pecuniam et condit." Macrobius (Sat. ii. c. 1) speaks of Cicero having saved L. Flaccus in the prosecution for Repetundae by an opportune joke. The joke, he says, is not in the oration, but he got it from the book of Fufius Bibaculus, and it is a joke well known among other jokes of Cicero. It cannot be this very brilliant joke, for here it is. We will hope it was something better and more worthy of the witty Roman.

P. Orbius,] A governor of the province before Flaccus, and P. Globulus was another.

In P. Globulum] 'Apud Globulum,' Baiter; and that is the meaning which we want. Manutius explains 'in Globulum' thus, 'id est, munera contulisti: ideo nihil contra te decrevit.' But the meaning is given by Camerarius: 'valuit gratia apud

neque ipsum neque me poeniteret. XXXII. Flaccum in curia decrevissent. Veridicas adjungis caussas inimicitiarum, quod patri L. Flacci, aedili curuli, pater tuus, tribunus plebis, diem dixerit. At istud ne ipsi quidem patri Flacci valde molestum esse debuit; praesertim quum ille, cui dies dicta est, praetor postea factus sit et consul: ille, qui diem dixit, non potuerit privatus in civitate consistere. Sed si justas inimicitias putabas, cur, quum tribunus militum Flaccus esset, in illius legione miles fuisti, quum per leges militares effugere liceret iniquitatem tribuni? Cur autem praetor te inimicum paternum in consilium vocavit? Quae quidem quam sancte solita sint observari scitis omnes. Nunc accusamur ab iis qui in consilio nobis fuerunt.—Decrevit Flaccus.—Num aliud atque oportuit?—In liberos.—Num aliter censuit senatus?—In absentem decrevit.—Quum ibidem esses, quum prodire nolles. Non est hoc in absentem, sed in latentem reum. SENATUSCONSULTUM ET DECRETUM FLACCI. Quid, si non decrevisset sed edixisset, quis posset vere reprehendere? Num etiam fratris mei litteras, plenissimas humanitatis et aequitatis, reprehensurus es, quas easdem mulieri a me datas apud Pataranos requisivit? Recita. LITTERAE Q. CICERONIS. Quid, haec Apollonidenses occasione facta ad Flaccum detulerunt; apud Orbium acta non

illum;' and he adds 'illius gratiae' as necessary to explain 'poeniteret.'

32. *Flaccum in curia . . . Veridicas*] This corrupt passage stands thus printed in Baiter after Madvig's corrections: "Flaccum injuria decrevisse in tua re dicis: adjungis." This is ingenious; and if we will correct the text, nothing better can be proposed.

diem dixerit.] Brought him to trial. 'Diem dicere' is the usual expression. Pro Sex. Rosc. Am. c. 12. Vol. II.

praetor . . . in consilium] Flaccus during his praetorship at Rome chose Decianus to be a 'judex,' which is the meaning of the words 'in consilium vocavit.' Cicero adds, "Now we are prosecuted," meaning Flaccus, "by those who were our consilium" (in consilio nobis fuerunt).

Decrevit Flaccus.] A careful reader of Cicero will soon learn to distinguish the parts in his supposed dialogues. This is said by the 'accusator,' or rather supposed to be said.

In absentem decrevit.] 'In absentem. Decrevit quum,' Baiter, following Madvig. The difference is immaterial. The charge or supposed charge is that Flaccus made a 'decretum' or gave a judgment 'in liberos,' which perhaps means the inhabitants of a 'libera civitas.' A 'decretum' made against an absent person is not properly called 'in absentem,' when the person has had notice that he is wanted and hides himself. There are some remarks on latitation in the oration Pro P. Quintio, c. 19. Vol. II.

edixisset,] The correction of Manutius, which makes an opposition between 'decretum' and 'edictum,' between an order made in a particular case (caussa cognita), and a general rule made by virtue of the 'imperium' of the governor. Crat. has 'dixisset.' This correction seems necessary, and it is easy to understand how 'sed edixisset,' might be corrupted into 'sed dixisset.' But Ursini contends that 'dixisset' is right.

quas easdem] All this is unintelligible. The Patarani are the inhabitants of Patara, a city of Lycia, on the coast, sixty stadia south-east of the mouth of the Xanthus. There are many remains of Patara, but the port is now a swamp (Beaufort's Karamania, p. 2). With the words 'Quid, haec Apollonidenses' the orator returns to the subject which he has already spoken of.—'detulerunt:' it should be 'non detulerunt.'

sunt; ad Globulum delata non sunt? Ad senatum nostrum, me consule, nonne legati Apollonidenses omnia postulata de injuriis unius Deciani detulerunt? At haec praedia in censum dedicavisti. Mitto, quod aliena; mitto, quod possessa per vim; mitto, quod convicta ab Apollonidensibus; mitto, quod a Pergamenis repudiata: mitto etiam, quod a nostris magistratibus in integrum restituta: mitto, quod nullo jure, neque in re neque in possessione tua. Illud quaero, sintne ista praedia censui censendo?

postulata] The claims, demands, or petitions of the Provinciales were called their Postulata, and it was usual to present them to the Senate through one of the consuls (Vol. I. Verr. ii. 2. c. 59).

censum dedicavisti.] This word occurs in the same sense in the speech of Scipio Africanus Minor against Ti. Asellius, of which Gellius (vii. 11) has preserved a fragment: "Sed tu in uno scorto majorem pecuniam absumpsisti quam quanti omne instrumentum fundi Sabini in censum dedicavisti." So we learn from these two passages that 'in censum dedicare' is to give in a return of property for the census. In the common texts the reading is 'in censu.' 'In censum' is Lipsius' correction.

convicta] He says that the 'praedia' were 'convicta.' He means that the people of Apollonis unanimously denounced his knavery, and that the 'praedia' were taken from him. The words 'in integrum restituta' are the general form of expression to signify that a man is restored by a decree of a court to his former legal condition. Here Cicero applies the words to the land; but all this passage (see c. 31, note) is full of errors and obscurity. Cicero is alluding to the decision of P. Orbius (c. 31), "P. Orbius . . . contra te omnia decrevit."

neque in re neque in] Baiter follows Mommsen, and omits the prepositions. It is easy to give to the words the meaning which Klotz does: "without any right either in respect to property (re) or possession (possessione)." He had not 'possession,' as Cicero says, and he had no 'res,' which we can interpret, as Klotz does, by considering property or title to possess as opposed to bare possession. But we cannot be sure what is meant. Ulpian (Frag. xxvi. 7) says: "neque pater ad quem lege hereditas bonorumve possessio cum re pertinet." When the 'bonorum possessio' was given 'cum re,' it meant that the person obtained the property, the ownership.

censui censendo?] Those who have the opportunity may consult the work of Becker, Handbuch der Römischen Alterthümer ii. 2, p. 203, on the Roman Census, and the passages to which he refers. 'Censui censendo' was a technical form: "censui censendo agri proprie appellantur qui et emi et venire jure civili possunt" (Paulus Diac. p. 58). The act of making the return to the censors is 'censere' or 'censeri;' for both forms were used. The censor was also said 'censere.' The Roman census dates from the reign of king Servius Tullius, from which time the chief revenue of the Roman State consisted in a 'tributum,' or a tax paid by the Roman citizens and levied on the capital value of property, and of course chiefly on land, which was in the early times of Roman history the most valuable property. The 'tributum' was in fact a land tax, and the amount of the taxable property was ascertained by the Census of Servius Tullius. After the close of the Macedonian war Italy was released from the 'tributum,' and it was never renewed, permanently at least, till a late period in the Empire. Provincial land was subject to the payment of the 'vectigal' (Vol. I. Verr. ii. 3. c. 6); and Provincial land could not be entered in the Roman census unless it had received the Jus Italicum, the quality of Italian land, with all the legal consequences of that quality. Italian land was a Res mancipi, the ownership of which was transferred by a peculiar form. We know no more of all this affair of Decianus than Cicero tells us, and we can never trust him in such matters. "You ran the risk," says Cicero, "if any great difficulty befel the state, of having to pay a 'tributum' out of the same land both at Apollonis and at Rome." It is supposed by some writers that the Italian 'tributum' was renewed in the consulship of Hirtius and Pansa, at a time when the Triumviri were seeking to raise money by all means. If it was established at that time, it was certainly not continued. Cicero supposes that a necessity might arise for again imposing the 'tributum' on Italia, and in that case, if the Asiatic land of Decianus was properly entered in the Roman census, he might have to pay taxes for it at Rome, and

habeant jus civile? sint necne sint mancipi? subsignari apud aerarium aut apud censorem possint? In qua tribu denique ista praedia censuisti? Commisisti, si tempus aliquod gravius accidisset, ut ex iisdem praediis et Apollonide et Romae imperatum esset tributum. Verum esto: gloriosus fuisti: voluisti magnum agri modum censeri, et ejus agri qui dividi plebi Romanae non potest. Census es praeterea numeratae pecuniae cxxx. Eam opinor tibi numeratam non esse abs te. Sed haec omitto. Census es mancipia Amyntae. Neque huic ullam in eo fecisti injuriam. Possidet enim ea mancipia Amyntas. Ac primo quidem pertimuit, quum te audisset servos suos esse censum. Rettulit ad jurisconsultos. Constabat inter omnes, si aliena censendo Decianus sua facere posset, eum maxima habiturum esse * * *. XXXIII. Habetis caussam inimicitiarum, qua caussa inflammatus Decianus ad Laelium detulerit hanc opimam accusationem. Nam ita questus est

it might be taxed also in Asia in respect of the census of that province. For there was a census in the provinces also (Vol. I. Verr. ii. 2. c. 53).

subsignari] "Was it land that could be undersigned at the 'aerarium' or in the censors' books" (tabulae). If we suppose that each proprietor signed his return in the 'tabulae censoriae,' we might give a meaning to 'apud censorem.' But this is not the meaning. He has spoken of the census, and he is now going to speak of another thing that might be done, if the land was really the same as Italian land. The Scholiast has explained the passage: "Subsignandi haec solebat esse caussa, ut aut qui vectigalia redimeret aut qui pro mancipe vectigalium fidem suam interponeret, loco pigneris (*sic*) praedia sua rei p. obligarent, quoad omnem pecuniam redemptores vectigalium repensarent." Those who farmed the 'vectigalia,' or those who became surety for a farmer general, made an entry in the treasury books or in the censors' by which their lands were bound as security to the State. In England the lands of treasurers, receivers, and collectors for the crown, except when the yearly receipts are under a certain sum, are bound without any formality, and liable to be taken and sold to make good any deficiency in their accounts. (13 Eliz. c. 4; 25 Geo. III. c. 35; 1 and 2 Geo. IV. c. 121.)

agri modum] This is a common Roman expression. The Lex of Licinius which limited the Possessiones was a 'Lex de modo agrorum' (Livy vi. 35). So Horace says, like a wise man (Sat. ii. 6):

"Hoc erat in votis: modus agri non ita magnus."

Provincial land belonged to the Populus Romanus according to Roman law. The Provincial had only the 'usus.' If Decianus had got the Quiritarian ownership of this land, it could not be taken by the State and divided among Romans as land in the provinces sometimes was.—'non potest:' 'non posset,' Halm; and perhaps right.

numeratae] This is money in coin (Vol. I. Verr. ii. 5. c. 7). Cicero (De Leg. iii. 3): "Censores populi aevitates, soboles, familias pecuniasque censento." Cicero means to say that Decianus never had so much money: he never counted so much. Not counted to thee by thyself; "but ab alieno; consequently the money was not thine" (Klotz). I am not very curious to know Cicero's exact meaning in such passages as these. When he wishes to leave some bad impression, he is content with the few words that will do it.

aliena censendo] There is a defect here; but the sense is easily made out. If Decianus could have made another man's property his own by entering it in the census, he would soon have grown rich. It is a plain principle that a man could get no title to another man's property by registering it in the censors' books as his own. It was thought necessary however to state this plain principle (Dig. 41. 1. 64): "Quae quisque aliena in censum deducit, nihilo magis ejus fiunt" (from Q. Mucius Scaevola).

33. *Nam ita questus*] He comes to a

Laelius, quum de perfidia Deciani diceret: Qui mihi auctor fuit, qui caussam ad me detulit, quem ego sum secutus, is a Flacco corruptus est, is me deseruit ac prodidit.—Sicine tu auctor tandem eum cui tu in consilio fuisses, apud quem omnes gradus dignitatis tuae retinuisses, pudentissimum hominem, nobilissima familia natum, optime de re publica meritum, in discrimen omnium fortunarum vocavisti? Scilicet defendam Decianum, qui tibi in suspicionem nullo suo delicto venit. Non est, mihi crede, corruptus. Quid enim fuit quod ab eo redimeretur? Ut duceret judicium? cui sex horas omnino lex dedit. Quantum tandem ex his horis detraheret, si tibi morem gerere voluisset? Nimirum illud est quod ipse suspicatur: invidisti ingenio subscriptoris tui. Quod ornabat facile locum quem prehenderat, et acute testes interrogabat, aut * * fortasse fecisset ut tu ex populi sermone exciperes *. Idcirco Decianum usque ad coronam applicuisti. Sed, ut hoc veri simile est, ita haud veri simile Decianum a Flacco esse corruptum. Ita scitote, [judices,] esse cetera: vel quod ait Lucceius L. Flaccum sibi dare cupisse ut a fide se abduceret sestertium vicies. Et eum tu accusas avaritiae, quem dicis sestertium vicies voluisse perdere? Nam quid emebat quum te emebat? Ut ad se transires? Quam partem caussae tibi daremus? An ut enuntiares consilia Laelii, qui testes ab eo prodirent? Quid, nos non videbamus habitare una? Quis hoc nescit tabulas in Laelii potestate fuisse? Num dubium est? An, ne vehementer, ne copiose accusares? Nunc facis suspicionem; ita enim dixisti, ut nescio quid a te impetratum esse videatur.

new matter. Decianus was the instigator of the prosecution; and Laelius complains that he was deserted by Decianus, and that Flaccus had bribed Decianus.

Sicine tu] Cicero addresses Decianus, and says, "Was it really so; were you the adviser (auctor) of this prosecution of a man, in whose 'consilium' you had been?" (in consilium vocavit, c. 32.)

Scilicet defendam] This is said sarcastically. "Of course I shall defend Decianus, whom you suspect without reason." Here he turns to Laelius, the prosecutor. He says that he was not worth bribing. Was he bribed to prolong the trial (ut duceret judicium)? No, says Cicero; "illud est quod ipse suspicatur:" "that is the true cause of your complaint which Decianus himself suspects. You were jealous of the talent of your subscriptor. That with facile art he dressed up the topic which he had laid hold of, and examined the witnesses acutely—" The rest is corrupt. In place of 'exciperes' Manutius proposed 'excideres,' which Baiter accepts.—'Idcirco . . . applicuisti:' this is unintelligible.

Ita scitote, . . . esse cetera:] 'Cetera,' Naugerius; 'certa,' Crat. Here ends the 'Peutingeri supplementum' (see c. 31, note); a corrupt and difficult passage.

vel quod] 'Velut quod,' nos; that is, Baiter. Here we come to another charge, that L. Flaccus proposed to buy off Lucceius. Cicero's answer is curious. You charge Flaccus with greediness, and yet you say that he offered to throw away a 'vicies,' two million sesterces; for what did he buy when he proposed to buy you? After several sneers Cicero asks, "Was he to buy off your vehement and full attack on him? Now you say something that raises a little suspicion; for you spoke in such a way that it really did seem as if something had been asked and got from you." Decianus spoke ill of course; as Cicero wishes his readers to believe.

XXXIV. At enim Androni Sextilio gravis injuria facta est et non ferenda; quod, quum esset ejus uxor Valeria intestato mortua,

34. *uxor Valeria*] The name shows that Valeria was of the same gens as L. Valerius Flaccus. She died intestate, and the governor claimed the 'hereditas,' or a portion of it as one of her next of kin, according to the Law of the Twelve Tables (Ulpian, Frag. xxvi. 1): "Si intestato moritur cui suus heres nec escit, agnatus proxumus familiam habeto." The word 'intenderit' is a technical word: the 'intentio' in a formula of action "est ea pars formulae, qua actor desiderium suum concludit" (Gaius, iv. 41).

There was nothing to say against this claim of Flaccus, if he was one of the next of kin.—But, says the other side, she was 'ingenua,' a free-born woman, which involves a tacit assumption that Flaccus said she was a freedwoman, and that he could only claim the 'hereditas' by virtue of his patronal rights, in the defect of 'sui heredes.' The Scholiast tells us that Valeria was a 'liberta.' Cicero neither says that she was or was not. If she was a 'liberta' the claim of the patroni was legal. The remark of the Scholiast with this exception is good: "Hoc autem juris observabatur, ut loco filiarum haberentur quae in manum viris convenissent. Verum haec fuit Valeria de libertis Flacci; ac propterea in legitima tutela quasi apud patronum habebatur; nec videri poterat jure in manum convenisse, quum hic ei tutor legitimus auctor non fuerit, et ideo hereditas ad hunc Flaccum legitimo jure pervenerit" (p. 244, ed. Orelli).

When the opposite side says, "she was 'ingenua,' a free-born woman," they give up the other defence; for they knew that if she was a 'freed woman,' the husband could have no claim. Cicero admits that the woman was 'ingenua;' and then he asks, "What, does not the property of 'ingenuae' pass by rule of law (lege) in case of their dying intestate?" The other side now take a new line of defence. They would exclude Flaccus' claim by setting up the husband's right by the marriage. "She was his wife," they say, "after the strict form" (in manu). There were three modes by which the strict Roman marriage was effected, Usu, Farreo, Coemptione (Gaius, i. 110). The 'confarreatio' was a religious ceremony, which could not apply to this case, and so Cicero says nothing about it. The 'coemptio' was in the form of a sale (Gaius, i. 113), and it is a just conclusion that the old Roman marriage was a sale. The English law in some respects views it as such, a sale by the woman of herself for money or money's worth settled on her: a valuable consideration is marriage, as the lawyers call it. The marriage by 'usus' was simply cohabitation with the intention of living together always; but by a year's use the man obtained the legal possession of the woman, who became in all legal respects the same as his daughter (Gaius, i. 111). This effect of the 'usus' was the 'in manum conventio,' which could be prevented by the woman staying away from her husband's house for three continuous nights in each year. The consequence of the 'conventio in manum' was that the woman was released from the 'potestas' of her father, if she had a father, or from the 'tutela' of her Tutores, if she had Tutores. All that she acquired belonged to her husband, and she ceased to have any property of her own (Gaius, ii. 86. 90. 98; and Top. c. 4: "Quum mulier viro in manum convenit, omnia quae mulieris fuerunt viri fiunt nomine dotis").

Cicero tells us that Valeria was in 'tutela legitima,' that is, her property was under the care of 'tutores.' None had been appointed by testament, and the Lex accordingly determined who they should be. In order that the 'usus' might have the effect of the 'conventio in manum,' we are told that the Tutores must have given their 'auctoritas' or legal assent; for the 'agnati' were the persons entitled to the woman's succession, if she did not come 'in manum viri.' "Quibus testamento quidem tutor datus non sit, iis ex lege XII agnati sunt tutores, qui vocantur legitimi" (Gaius, i. 155). A person who was under the care of such Tutores was said to be in 'tutela legitima.' Again, the 'agnati' are thus defined: "Sunt autem agnati per virilis sexus personas cognatione juncti, quasi a patre cognati: veluti frater eodem patre natus, fratris filius, neposve ex eo, item patronus et patroni filius et nepos ex eo" (Gaius, i. 156). A woman had no 'sui heredes,' for 'sui heredes' are thus defined: "Sui heredes existimantur liberi qui in potestate morientis fuerint, veluti filius filiave, nepos neptisve ex filio, pronepos proneptisve ex nepote filio nato prognatus prognatave." (Just. Inst. iii. 1, 2.)

If then there were children, they could not succeed to the mother as 'sui heredes,' because they were not in the 'potestas' of the mother. They could only succeed to the mother as being her brothers and sis-

sic egit eam rem Flaccus quasi ad ipsum hereditas pertineret. In quo quid reprehendas scire cupio. Quod falsum intenderit? Qui doces?—Ingenua, inquit, fuit.—O peritum juris hominem! Quid, ab ingenuis mulieribus hereditates lege non veniunt?—In manum, inquit, convenerat.—Nunc audio. Sed quaero, usu an coemptione? Usu non potuit. Nihil enim potest de tutela legitima nisi omnium tutorum auctoritate deminui. Coemptione? Omnibus ergo auctoribus, in quibus certe Flaccum fuisse non dices. Relinquitur illud, quod vociferari non destitit, non debuisse quum praetor esset suum negotium agere aut mentionem facere hereditatis. Maximas audio tibi, L. Luculle, qui de L. Flacco sententiam laturus es, pro tua eximia liberalitate maximisque beneficiis in tuos venisse hereditates, quum Asiam provinciam consulari imperio obtineres. Si quis eas suas esse dixisset, concessisses? Tu, T. Vetti, si quae tibi in Africa venerit hereditas, usu amittes, an tuum, nulla avaritia, salva digni-

ters; which could only be the case where the woman had come 'in manum viri:' "Similiter non admittuntur cognati, qui per feminini sexus personas necessitudine junguntur, adeo quidem ut nec inter matrem et filium filiamve ultro citroque hereditatis capiendae jus competat, praeterquam si per in manum conventionem consanguinitatis jura inter eos constiterint" (Gaius, iii. 24).

If then Cicero tells the truth when he says that if a woman was in 'tutela legitima,' she could not come 'in manum viri' by 'usus' without the consent of all the Tutores, and if this consent had not been given, the husband had no title to the wife's succession. Cicero says the same of 'coemptio' and the consent of the Tutores; and if he tells the truth, the legal consequence is the same as in the 'conventio in manum' by 'usus.' The husband in neither case had any claim.

Klotz has a long note on this passage in which he mistakes the main matter. He supposes that Andro claimed his wife's property as her 'suus heres,' when he ought to have known that a woman could have no 'suus heres.' Andro claimed as her husband, but as husband he could have no claim to the property of his wife, except by the 'conventio in manum' or 'dotis nomine.' Rein has the same blunder as Klotz (Das Römische Privatrecht, p. 180). So gross a mistake seems almost incredible, and Cicero himself might have warned them against it, for he speaks here of the husband's title to the wife's property being by marriage 'cum conventione in manum,' and in no other way. If the woman was not in 'manu viri,' her succession, according to the old law, if she died intestate, came to the 'agnati.' It was just the same thing as if she was not married at all (Gaius, iii. 14). Her husband had her merely 'procreandorum liberorum caussa.' Cicero says nothing about there being children; for it was immaterial whether there were children or not. They could not take as children. For according to the Twelve Tables the succession of an intestate mother, says Ulpian (Frag. xxvi. 7), did not come to their children, because a woman cannot have 'sui heredes.' It is a great absurdity then to suppose that a 'husband' could be a wife's 'suus heres,' when the foundation of the right of succession is 'cognatio,' 'kinship,' 'blood relationship;' and blood relationship through a male (agnatio). In the time of M. Aurelius and his son Commodus, a S. C. was passed to this effect, "ut sine in manum conventione matrum legitimae hereditates ad filios pertineant exclusis consanguineis et reliquis agnatis." If a son died intestate the law of the XII did not allow the succession to go to the mother; and the reason is plain. She was no 'suus heres.' The S. C. Tertullianum gave the succession, if the woman had the 'jus liberorum.'

L. Lucullc,] He was a judex on this trial. Pighius, quoted by Klotz, supposes that T. Vettius was praetor and presided at this trial, and that he was to go to Africa next year as propraetor; and this is, I think, a true explanation.

usu amittes,] He would lose it, if he did

tate, retinebis? At istius hereditatis jam Globulo praetore Flacci nomine petita possessio est. Non igitur impressio, non occasio, non vis, non tempus, non imperium, non secures ad injuriam faciendam Flacci animum impulerunt. Itaque eodem etiam M. Lurco, vir optimus, meus familiaris, convertit aculeum testimonii sui. Negavit a privato pecuniam in provincia praetorem petere oportere. Cur tandem, M. Lurco, non oportet? Extorquere, accipere contra leges non oportet: petere non oportere numquam ostendes, nisi docueris non licere. An legationes sumere liberas exigendi caussa, sicut et tu ipse nuper et multi viri boni saepe fecerunt, rectum est, quod ego non reprehendo, socios video queri; praetorem, si hereditatem in provincia non reliquerit, non solum reprehendendum, verum etiam condemnandum putas? XXXV. Doti, inquit, Valeria pecuniam omnem suam dixerat. Nihil istorum explicari potest, nisi ostenderis illam in tutela Flacci non fuisse. Si fuit, quaecumque sine hoc auctore est dicta dos, nulla est. Sed tamen Lurconem, quamquam pro sua dignitate moderatus est in testimonio dicendo religioni suae, tamen iratum Flacco esse vidistis. Neque enim occultavit caussam iracundiae suae neque reticendam putavit. Questus est libertum suum Flacco praetore esse damnatum. O conditiones miseras administrandarum civitatum et pro-

not take possession in a certain time, for another man might take possession (pro herede) and gain a title. To lose by 'usus' seems an inexact expression. "Rursus ex contrario accidit ut qui sciat alienam rem se possidere usucapiat: velut si rem hereditariam, cujus possessionem heres nondum nactus est aliquis possederit; nam ei concessum est usucapere, si modo ea res est, quae recipit usucapionem, quae species possessionis et usucapionis pro herede vocatur:" Gaius (ii. 52), who explains the reason of this rule of law (ii. 55).

impressio,] 'Impetus,' says Manutius, that is, 'violence.' The 'hereditas' was not acquired by any violence, or irregular exercise of the governor's authority.

legationes] See Vol. II. De Leg. Agr. i. c. 3. 'Exigendi caussa' means to get in debts and to look after their affairs. Cicero (Ad Fam. xii. 21) gives a letter of introduction to C. Anicius addressed to Cornificius the Roman governor of Africa: "C. Anicius familiaris meus, vir omnibus rebus ornatus, negotiorum suorum caussa legatus est in Africam legatione libera." Manutius supposes that the Provinciales, for they are the Socii, complained "quia cum senatoribus non aequo jure litigarent;" and he quotes Cicero (De Leg. iii. 8): "Jam illud apertum est profecto nihil esse turpius quam est quemquam legari nisi rei publicae caussa. Omitto quemadmodum isti se gerant atque gesserint qui legatione hereditates aut syngraphas suas persequuntur," &c. But the fault was that these 'legati' could make certain demands on the Provinciales just like those who were sent on public business. Sometimes they had lictors. Cicero himself had taken a 'legatio libera;' or he talked about taking one (Ad Att. i. 1).

35. *Doti, inquit,*] Some new matter from the other side. The husband got his wife's property as Dos. The answer is that she could not give her money to her husband without Flaccus' consent, if she was under Flaccus' 'tutela.' (See Pro Caecina, c. 25, Vol. II.)

religioni suae,] Bremius and others would read 'orationi.' They compare Cicero (Verr. ii. 3. c. 43): "Sentio, judices, moderandum mihi esse jam orationi meae fugiendamque vestram satietatem." If 'religioni' is right, of course it means what the commentators say, "modum tenuit propter religionem scilicet jurisjurandi."

vinciarum; in quibus diligentia plena simultatum est, negligentia vituperationum; ubi severitas periculosa est, liberalitas ingrata; sermo insidiosus, assentatio perniciosa; frons omnium familiaris, multorum animus iratus; iracundiae occultae, blanditiae apertae; venientes praetores exspectant, praesentibus inserviunt, abeuntes deserunt. Sed omittamus querelas, ne nostrum consilium in praetermittendis provinciis laudare videamur. Litteras misit de villico P. Septimii, hominis ornati, qui villicus caedem fecerat. Septimium ardentem iracundia videre potuistis. In Lurconis libertum judicium ex edicto dedit: hostis est Lurco. Quid igitur, hominum gratiosorum splendidorumque libertis fuit Asia tradenda? An simultates nescio quas cum libertis vestris Flaccus exercet? an vobis in vestris vestrorumque caussis severitas odio est, eandem laudatis quum de nobis judicatis? XXXVI. At iste Andro, spoliatus bonis, ut dicitis, ad dicendum testimonium non venit. Quid, si veniat? Decisionis arbiter C. Caecilius fuit: quo splendore vir! qua fide! qua religione! obsignator C. Sextilius, Lurconis sororis filius, homo et pudens et constans et gravis. Si vis erat, si fraus, si metus, si circumscriptio, quis pactionem fieri, quis adesse istos

in praetermittendis] He had refused to take a province after his consulship, as he often tells us. He afterwards went as governor to Cilicia, but against his will and in obedience to a S. C. (Ad Att. v. 15; Dion Cassius, 40. c. 56).

Litteras misit] Flaccus sent 'litterae.' It was an order sent by virtue of his authority as governor. 'Litterae' is used generally to signify the missives of a governor. He ordered the murderer to be seized, and he was tried and condemned. All seems right here; but Septimius did not like to lose his manager or bailiff (villicus) nor Lurco his freedman. Such a story shows what the situation of a Roman provincial governor was. He could not even do justice without making himself enemies. When he got back to Rome, a prosecution was a matter of course. Flaccus acted 'ex edicto,' according to the general rule promulgated on entering on his government (see Vol. I. Edicta Magistratuum). Nothing could be fairer. I assume Cicero's story to be true, having no means of contradicting his statements, which I observe that commentators sometimes have. But perhaps they know no more than the rest of us.

Baiter writes 'vilicus.' Cicero repeats the noun with 'qui' for the sake of precision, and we should do well to imitate the Romans, if not in this particular form, in those cases at least where they repeat words to avoid ambiguity. Caesar has an example of repetition where there would be no ambiguity if the word were not repeated (B. G. i. 6): "Erant omnino itinera duo, quibus itineribus." But the repetition is emphatic, as in another passage in the oration Pro Domo, c. 28: "Itaque ille unus dies, quo die." It has been supposed that the Romans took this form of expression from the style of their 'Leges,' where it often occurs; but where did they take the style of their 'Leges' from?

36. *Decisionis arbiter*] 'Decidere' is to come to terms with a person. Andro had the property in his hands, and when he gave it up, as he was bound to do, there might be many matters to settle. I do not take 'arbiter' in the proper sense, as Manutius does, but in the sense of a witness, as Graevius does. On the word 'decidere' see Vol. I. Verr. ii. 1. c. 48. The 'pactio' is some agreement that Flaccus and Andro came to.—'huic adolescentulo:' some youth named Flaccus, a kinsman of the defendant Flaccus. The youth's father was dead, as the rest of the passage shows.—'si redacta per hunc,' Baiter, who follows Pantagathus. S. T. A. F. have 'si per hunc.'

coegit? Quid, si ista omnis pecunia huic adolescentulo, L. Flacco, reddita est, si petita, si redacta, si per hunc Antiochum, paternum hujus adolescentis libertum, seni illi Flacco probatissimum, videmurne non solum avaritiae crimen effugere, sed etiam liberalitatis laudem assequi singularem? Communem enim hereditatem, quae aequaliter ad utrumque lege venisset, concessit adolescenti propinquo suo: nihil ipse attigit de Valerianis bonis. Quod statuerat facere, adductus hujus pudore et non amplissimis patrimonii copiis, id non solum fecit, sed etiam prolixe cumulateque fecit. Ex quo intelligi debet eum contra leges pecunias non cepisse, qui tam fuerit in hereditate concedenda liberalis.

At Falcidianum crimen est ingens. Talenta quinquaginta se Flacco dicit dedisse. Audiamus hominem. Non adest. Quomodo igitur dicit? Epistolam mater ejus profert et alteram soror: scriptum ad se dicunt esse ab illo tantam pecuniam Flacco datam. Ergo is, qui si aram tenens juraret, crederet nemo, per epistolam quod volet injuratus probabit? At qui vir! quam non amicus suis civibus! qui patrimonium satis lautum, quod hic nobiscum conficere potuit, Graecorum conviviis maluit dissipare. Quid attinuit relinquere hanc urbem, libertate tam praeclara carere, adire periculum navigandi? quasi bona comesse Romae non liceret. Nunc denique materculae suae festivus filius, aniculae minime suspiciosae,

videmurne] This is a very common use in Cicero. I have remarked on it before. It means in English, 'Do we not seem?'

ad utrumque] Flaccus the governor and the young Flaccus were therefore 'adgnati' in the same degree: for otherwise the 'hereditas' could not have come to both. "Non tamen omnibus simul agnatis dat lex XII tabularum hereditatem, sed his qui tunc quum certum est aliquem intestato decessisse proximo gradu sunt" (Gaius, iii. 11). The governor gave his share to the youth, a fact which Cicero interprets in favour of the governor's generous character.

prolixe] 'Abunde et magna copia' (Sylvius). It means 'readily.' Cicero (Ad Att. i. 1): "cetera spero prolixa esse his duntaxat urbanis competitoribus;" and (xvi. 16): "id autem est, ut hoc, quod te tua sponte facturum esse certo scio, honoris nostri caussa libenter, prolixe, celeriter facias." (See also Pro Domo sua, c. 11.) Some suppose that 'prolixa' means 'secunda' in the first passage here quoted; and they quote the use of the word in a speech of Cato (Gellius vii. 3): "Scio solere plerisque hominibus rebus secundis atque prolixis atque prosperis animum excellere, superbiam atque ferociam augescere atque crescere." There are the expressions 'prolixus capillus,' hair hanging loose and long, and 'prolixae abietes.' So it is not difficult to give the word a probable meaning.

qui si] Graevius altered this to 'cui si' that we might have a person to refer 'crederet' to; but it is right as it is. Baiter retains it, and refers to Madvig, Ep. Crit. p. 106. 'To hold the altar' was a form of oath-taking.

conficere potuit,] 'Which he might have wasted here.' Cicero has nothing to do but to make the man ridiculous: How little was he a friend to his citizens, who spent in Asia the fortune that he might have spent at Rome.—The words 'Quid attinuit, libertate tam praeclara carere' are explained by a passage in the letter of Cicero to his brother Quintus (i. 1. c. 5), who speaks of men leaving the enjoyments of Rome to go to the provinces to make money: "qui pecuniae cupiditate adducti careant iis rebus omnibus, a quibus nos divulsi esse non possumus."

purgat se per epistolam, ut eam pecuniam quacum trajecerat non consumpsisse sed Flacco dedisse videatur. XXXVII.—At fructus isti Trallianorum Globulo praetore venierant: Falcidius emerat H-S nongentis millibus.—Si dat tantam pecuniam Flacco, nempe idcirco dat ut rata sit emptio. Emit igitur aliquid quod certe multo pluris esset: dat de lucro: nihil detrahit de vivo. Minus igitur lucri facit. Cur Albanum venire jubet? cur matri praeterea blanditur? cur epistolis et sororis et matris imbecillitatem aucupatur? postremo cur non audimus ipsum? Retinetur, credo, in provincia: mater negat. Venisset, inquit, si esset denuntiatum. Tu certe coegisses, si ullum firmamentum in illo teste posuisses. Sed hominem ab negotio abducere noluisti. Magnum erat ei certamen propositum, magna cum Graecis contentio; qui tamen, ut opinor, jacent victi. Nam iste unus totam Asiam magnitudine poculorum bibendoque superavit. Sed tamen quis tibi, Laeli, de epistolis istis indicavit? Mulieres negant se scire. Quis is est igitur? Ille ipse tibi se ad matrem et sororem scripsisse narravit? An etiam scripsit oratu tuo? At vero M. Aebutium, constantissimum et pudentissimum hominem, Falcidii affinem, nihil interrogas? nihil ejus generum, pari fide praeditum, C. Manilium? qui profecto de tanta pecunia, si esset data, nihil audisse non posset. His tu igitur epistolis, Deciane, recitatis, his mulierculis productis, illo absente auctore laudato, tantum te crimen probaturum putasti? praesertim, quum ipse non deducendo Falcidium, judicium feceris plus falsam

quacum trajecerat] The money that he had carried over with him. He had spent it, says Cicero. He wrote to tell his old mother that he had given it to Flaccus. The man had borrowed money from his mother and his sister it seems, and perhaps from others, to make a venture in Asia. Money carried by sea was called Pecunia trajectitia (Dig. 22. Tit. 2. De Nautico foenere).

37. *At fructus*] This is a supposed answer to Cicero. The other side says: The man had not wasted the money; he had farmed the 'vectigalia' of Tralles; he took the lease in the time of Globulus, the predecessor of Flaccus; he gave for them nine hundred thousand H-S. The expressions 'fructus' and 'emere' are explained in Vol. I. Verr. ii. 3. c. 6.

Cicero of course does not mean that Flaccus took money from Falcidius. But he says if Falcidius gave Flaccus so much, he did it that his farm might be ratified; and it is a fair conclusion that he bought something which was worth much more; that he got his lease below its value. Accordingly Cicero concludes he made the present or whatever it was to be called out of his profits, and not out of his capital (de vivo). It was then merely a diminution of his profits. Cicero continues, "Why does he give orders for the sale of his estate at Alba? and why try to wheedle his poor mother and sisters out of their money?" The conclusion is that he wanted capital, that he had wasted what he took with him, that he had never taken to farm the 'vectigalia' of Tralles, and lastly that he never gave Flaccus any thing.

If the prosecutor could not prove that Flaccus had this money from Falcidius, there was an end of that part of the charge. But neither letters of Falcidius, nor the oath of Falcidius would prove that Flaccus had the money.—'scire, quis: ipse igitur ille,' Baiter.—'non posset,' S. T. A.; 'non possent,' Baiter.

epistolam habituram ponderis quam ipsius praesentis fictam vocem et simulatum dolorem?

Sed quid ego de epistolis Falcidii aut de Androne Sextilio aut de Deciani censu tamdiu disputo [et postulo], de salute omnium nostrum, de fortunis civitatis, de summa re publica taceo? quam vos universam in hoc judicio vestris, vestris, inquam, humeris, judices, sustinetis. Videtis in quo motu temporum, quanta in conversione rerum ac perturbatione versemur. XXXVIII. Quum alia multa certi homines, tum hoc vel maxime moliuntur, ut vestrae quoque mentes, vestra judicia, vestrae sententiae optimo cuique infestissimae atque inimicissimae reperiantur. Gravia judicia pro rei publicae dignitate, multa de conjuratorum scelere fecistis. Non putant satis conversam rem publicam, nisi in eandem impiorum poenam optime meritos cives detruserint. Oppressus est C. Antonius. Esto: habuit quandam ille infamiam suam: neque tamen ille ipse, pro meo jure dico, vobis judicibus damnatus esset, cujus damnatione sepulcrum L. Catilinae, floribus ornatum, hominum audacissimorum ac domesticorum hostium conventu epulisque celebratum est, justa Catilinae facta sunt. Nunc a Flacco Lentuli poenae per vos expetuntur. Quam potestis P. Lentulo, qui vos in complexu liberorum conjugumque vestrarum trucidatos incendio patriae sepelire conatus est, mactare victimam gratiorem quam si L. Flacci sanguine illius nefarium in [nos] omnes odium saturaveritis?

disputo] 'Disputo et postulo' T. 'Disputo? postulo' S. A. F. Some editions have 'disputo et expostulo,' which Lambinus restored, as he says, 'ex auctoritate codd. Memmian.'—'de summa re publica:' there is the usual variation 'de summa rei publicae.'

38. *C. Antonius.*] Cicero's colleague in the consulship (see c. 2 of this oration). Cicero says that C. Antonius would not have been convicted if the 'judices' who sat on Flaccus' trial had been the 'judices' of Antonius. Garatoni concludes from this passage that the trial of Flaccus took place after the enactment of the Lex Vatinia de rejectione judicum (see c. 6 of this oration, and note on 'hac lege'). Cicero (In Vatin. c. 11) has a passage which begins: "Et quoniam crebro usurpas legem te de alternis consiliis rejiciendis tulisse," &c. Antonius had not the benefit of the challenge when he was tried, and this will explain what Cicero says.

pro meo jure dico,] 'I have good right to say it.' The context shows why he says that he has good right to say this.

sepulcrum] He is either speaking oratorically, in other words, falsely; or we must suppose that a cenotaph was raised to Catilina's memory, that it was crowned with flowers; and that there was eating and drinking in honour of the traitor, as there was in honour of better men (Pro Murena, c. 36). Funeral pomp was a Roman fashion, and the place where the body was burnt or where the ashes were placed was frequented by those who lamented the dead. Caesar's 'bustum' was visited by the Jews for many successive nights (Sueton. Caesar, c. 85). A long time after Nero's death there were persons who decorated his tomb with the flowers of spring and autumn, a sign of affection for a man whom we should have supposed to have left no friend behind him (Sueton. Nero, c. 57).

Lentuli] The praetor who was strangled for his share in Catilina's conspiracy (Introd. to the orations against Catilina). Cethegus was another of the conspirators who was punished.

Litemus igitur Lentulo, parentemus Cethego, revocemus ejectos: nimiae pietatis et summi amoris in patriam vicissim nos poenas, si ita placet, sufferamus. Nos jam ab indicibus nominamur; in nos crimina finguntur; nobis pericula comparantur. Quae si per alios agerent, si denique per populi nomen civium imperitorum multitudinem concitassent, aequiore animo ferre possemus: illud vero ferri non potest, quod per senatores et per equites Romanos, qui haec omnia pro salute omnium communi consilio, una mente atque virtute gesserunt, harum rerum auctores, duces, principes spoliari omnibus fortunis atque civitate expelli posse arbitrantur. Etenim populi Romani perspiciunt eam mentem et voluntatem: omnibus rebus quibus potest populus Romanus significat quid sentiat: nulla varietas est inter homines opinionis, nulla voluntatis, nulla sermonis. Quare, si quis illuc me vocat, venio: populum Romanum disceptatorem non modo non recuso, sed etiam deposco. Vis absit; ferrum ac lapides removeantur; operae facessant, servitia sileant: nemo erit tam injustus qui me audierit, sit modo liber et civis, quin potius de praemiis meis quam de poena cogitandum putet. XXXIX. O dii immortales, quid hoc miserius? Nos, qui P. Lentulo ferrum et flammam de manibus extorsimus, imperitae multitudinis judicio confidimus, lectissimorum civium et amplissimorum sententias pertimescimus. M'. Aquillium patres nostri multis avaritiae criminibus testimoniisque convictum, quia cum fugitivis fortiter bellum gesserat, judicio liberaverunt. Consul ego nuper defendi C. Pisonem, qui quia consul fortis constansque fuerat, incolumis est rei publicae conservatus. Defendi item consul L. Murenam, consulem designatum. Nemo illorum judicum clarissimis viris accusantibus

Etenim . . . eam] F. has 'etenim si;' but, as Lambinus says, 'si' spoils the sense. The enemies of Flaccus were trying to effect his ruin by his 'judices' (per senatores et per equites); and not in the name of the people; "for indeed," Cicero says, "they well know the opinion and disposition of the Roman people." In place of 'eam' Gulielmus wrote 'eandem,' which Baiter accepts; but why, I know not. F. omits 'eam.' Victorius proposes 'perspiciunt jam,' a much better emendation than the other.

disceptatorem] 'As a judge.' See Vol. I. Verr. ii. 3. c. 72, note. 'Populo Romano disceptatore uti volo,' De Leg. Agr. i. c. 7. Vol. II.

operae facessant,] 'Away with the working men.' 'Operae' is the same as 'operarii.' (Pro Sulla, c. 24.)

39. *M'. Aquillium*] His story is told in another place by Cicero (Vol. I. Verr. ii. 5. c. 1, and 3. c. 54).—'convictum.' See Vol. I. Act. 1. c. 4.

C. Pisonem,] C. Calpurnius Piso, consul B.C. 67. He was the governor of Gallia Provincia B.C. 66, 65. C. Julius Caesar prosecuted him for Repetundae and Cicero defended him. Cicero (Ad Att. i. 13) seems to mean this Piso, when he speaks with a sneer of the 'pacificator Allobrogum.'

L. Murenam,] See the Introduction to the oration Pro Murena. The prosecutors of Murena were Ser. Sulpicius and M. Cato. If Murena had been convicted and his election thus annulled, there would not have been two consuls to enter on their office on the first of January following, as Cicero says.

audiendum sibi de ambitu putavit, quum bellum jam gerente Catilina omnes me auctore duos consules Kalendis Jan. scirent esse oportere. Innocens et bonus vir et omnibus rebus ornatus bis hoc anno me defendente absolutus est A. Thermus. Quanta rei publicae caussa laetitia populi Romani, quanta gratulatio consecuta est. Semper graves et sapientes judices in rebus judicandis, quid utilitas civitatis, quid communis salus, quid rei publicae tempora poscerent, cogitaverunt. Quum tabella vobis dabitur, judices, non de Flacco dabitur solum: dabitur de ducibus auctoribusque conservandae civitatis; dabitur de omnibus bonis civibus; dabitur de vobismet ipsis; dabitur de liberis vestris, de vita, de patria, de salute communi. Non judicatis in hac caussa de exteris nationibus, non de sociis: de vobis ac de vestra re publica judicatis. XL. Quod si provinciarum vos ratio magis movet quam vestra, ego vero non modo non recuso, sed etiam postulo, ut provinciarum auctoritate moveamini. Etenim opponemus Asiae provinciae primum magnam partem ejusdem provinciae, quae pro hujus periculis legatos laudatoresque misit: deinde provinciam Galliam, provinciam Ciliciam, provinciam Hispaniam, provinciam Cretam: Graecis autem Lydis et Phrygibus et Mysis obsistent Massilienses, Rhodii, Lacedaemonii, Athenienses, cuncta Achaia, Thessalia, Boeotia. Septimio et Caelio testibus P. Servilius et Q. Metellus hujus pudoris integritatisque testes repugnabunt. Asiaticae jurisdictioni urbana jurisdictio respondebit. Annui temporis criminationem omnis aetas L. Flacci et perpetua vita defendet. Et si prodesse L. Flacco, judices, debet, quod se tribunum militum, quod quaestorem, quod legatum imperatoribus clarissimis, exercitibus ornatissimis, provinciis gravissimis dignum suis majoribus praestitit; prosit, quod hic, vobis videntibus, in periculis communibus omnium vestrum sua pericula cum meis conjunxit; prosint honestissimorum municipiorum coloniarumque laudationes; prosit etiam senatus populique Romani praeclara et vera laudatio. O nox illa quae paene aeternas huic urbi tenebras attulisti, quum Galli ad bellum, Catilina ad urbem, conjurati ad ferrum et flammam vocabantur; quum ego te, Flacce, caelum noctemque contestans, flens flentem obtestabar; quum tuae fidei optimae et spectatissimae salutem

Thermus.] Nothing more is known of this A. Thermus.

tabella] See Vol. I. Divin. c. 7, and the note.

40. *cuncta Achaia,*] See c. 26.

urbana] Flaccus was 'praetor urbanus' in B.C. 63, after which he was governor of Asia for a year (annui temporis).—'O nox illa:' the night on which the Praetors Flaccus and Pomptinus seized the legati of the Allobroges with the letters of the conspirators on them. (In Cat. iv. 9.)

urbis et civium commendabam. Tu, tu, Flacce, praetor, communis exitii nuntios cepisti: tu inclusam in litteris rei publicae pestem deprehendisti: tu periculorum indicia, tu salutis auxilia ad me et ad senatum attulisti. Quae tibi tum gratiae sunt a me actae, quae a senatu, quae a bonis omnibus! Quis tibi, quis C. Pomptino, fortissimo viro, quemquam bonum putaret umquam, non salutem, verum honorem ullum denegaturum? O Nonae illae Decembres, quae me consule fuistis! quem ego diem vere natalem hujus urbis aut certe salutarem appellare possum. XLI. O nox illa quam iste est dies consecutus, fausta huic urbi! miserum me! metuo, ne funesta nobis! Qui tum animus L. Flacci? nihil dicam enim de me: qui amor in patriam, quae virtus, quae gravitas exstitit! Sed quid ea commemoro, quae tum quum agebantur uno consensu omnium, una voce populi Romani, uno orbis terrae testimonio in caelum laudibus efferebantur? nunc vereor ne non modo non prosint, verum etiam aliquid obsint. Etenim multo acriorem improborum interdum memoriam esse sentio quam bonorum. Ego te, si quid gravius acciderit, ego te, inquam, Flacce, prodidero; mea dextera illa, mea fides, mea promissa, quum te, si rem publicam conservaremus, omnium bonorum praesidio, quoad viveres, non modo munitum sed etiam ornatum fore pollicebar. Putavi, speravi, etiamsi honos noster vobis vilior fuisset, salutem certe caram futuram. At L. Flaccum quidem, judices, si, quod dii immortales omen avertant, gravis injuria afflixerit, numquam tamen prospexisse vestrae saluti, consuluisse vobis, liberis, conjugibus, fortunis vestris poenitebit. Semper ita sentiet, talem se animum et generis dignitati et pietati suae et patriae debuisse; vos ne poeniteat tali civi non pepercisse, per deos immortales, judices, providete. Quotus enim quisque est qui hanc in re publica sectam sequatur? qui vobis, qui vestri similibus placere cupiat? qui optimi atque amplissimi cujusque hominis atque ordinis auctoritatem magni putet? quum illam viam sibi videant expeditiorem ad honores et ad omnia quae concupiverunt. XLII. Sed cetera sint eorum: sibi habeant potentiam, sibi hono-

Tu, tu,] A. F.; 'Tu tum' S. T., Baiter. —'Nonae Decembres:' the day on which Lentulus and four other conspirators were strangled at Rome. (Introduction to the orations against Catilina.)

41. *O nox illa quam iste est dies*] He returns to the night on which the Allobroges were arrested. On the following day the conspirators were taken to the senate-house and confronted with the Allobroges. Flaccus was there with the letters which he had taken. (Sallust, Cat. c. 46.)

sectam] Party or sometimes course of life. (Pro C. Rabirio, c. 8, Vol. II.) He means the conservative party, the Optimates, Cicero's party. The words 'illam viam' allude to the designs of the revolutionary party.—'illam viam si sibi,' Baiter: 'illam viam sibi,' S. T. A.; 'quum illam viam sibi,' F.—'vident,' S. A., Baiter; 'videant,' T. F.

res, sibi ceterorum commodorum summas facultates: liceat his, qui haec salva esse voluerunt, ipsis esse salvis. Nolite, judices, existimare eos quibus integrum est, qui nondum ad honores accesserunt, non exspectare hujus exitum judicii. Si L. Flacco tantus amor in bonos omnes, tantum in rem publicam studium calamitati fuerit, quem posthac tam amentem fore putatis qui non illam viam vitae, quam ante praecipitem et lubricam esse ducebat, huic planae et stabili praeponendam esse arbitretur? Quod si talium civium vos, judices, taedet, ostendite: mutabunt sententiam qui poterunt: constituent quid agant quibus integrum est: nos qui jam progressi sumus hunc exitum nostrae temeritatis feremus. Sin hoc animo quam plurimos esse vultis, declarabitis hoc judicio quid sentiatis. Huic, huic misero puero, vestro ac liberorum vestrorum supplici, judices, hoc judicio vivendi praecepta dabitis; cui si patrem conservatis, qualis ipse debeat esse civis praescribetis: sin eripitis, ostendetis bonae rationi et constanti et gravi nullum a vobis fructum esse propositum. Qui vos, quoniam est id aetatis ut sensum jam percipere possit ex maerore patrio, auxilium nondum patri ferre possit, orat ne suum luctum patris lacrimis, patris maerorem suo fletu augeatis: qui etiam me intuetur, me vultu appellat, meam quodammodo flens fidem implorat, ac repetit eam quam ego patri suo quondam pro salute patriae spoponderim dignitatem. Miseremini familiae, judices, miseremini patris, miseremini filii: nomen clarissimum et fortissimum vel generis vel vetustatis vel hominis caussa rei publicae reservate.

42. *eos quibus integrum est,*] Those who have still the power of choosing what course of life they will follow, as Camerarius rightly explains it. This is a common expression in Cicero.

Huic, huic] B. has it only once; and Baiter.

id aetatis] Vol. I. Verr. ii. 2. c. 37.

The young son of Flaccus is produced or supposed to be produced in order to move the compassion of the Judices. This was what Ser. Galba did on his trial (Pro Murena, c. 28). "Reprehendebat igitur Galbam Rutilius, quod is C. Sulpicii Galli, propinqui sui, Q. pupillum filium ipse pene in humeros suos extulisset, qui patris clarissimi recordatione et memoria fletum populi moveret, et duos filios suos parvos tutelae populi commendasset, ac se, tamquam in procinctu testamentum faceret sine libra atque tabulis, populum Romanum tutorem instituere dixisset illorum orbitati. Itaque quum et invidia et odio populi tum Galba premeretur, his quoque eum tragoediis liberatum ferebat; quod item apud Catonem scriptum esse video, nisi pueris et lacrimis usus esset, poenas eum daturum fuisse" (Cicero, De Or. i. 53). See Pro Sulla, c. 31, and the notes; and Juvenal, vii. 146.

Socrates in Plato's Apology (c. 23) tells us what he thought of this way of moving the compassion of the court. The sturdy philosopher treats it with contempt, and will not save his life by such mean artifice.

INTRODUCTION.

QUUM SENATUI GRATIAS EGIT.—QUUM POPULO GRATIAS EGIT.—DE DOMO SUA.

THESE three orations will be better understood by the following historical sketch.

The year of Cicero's consulship (B.C. 63) was the most glorious period of his life, as he tells us. He frustrated the designs of a desperate band of conspirators, and saved his country from a bloody revolution. But his services to the State made him many enemies, and his own imprudence and vanity increased the number. The execution of the five conspirators at Rome was an illegal act, for the Senate had no power to put Roman citizens to death; which could only be done by a vote of the Roman people in the Comitia Centuriata. Cicero was not responsible for this illegality, but he was the man who discovered the conspiracy, who urged the Senate to punish, who saw the sentence executed. At the termination of his consulship on the last day of the year, when he ascended the Rostra to give an account to the people, as was usual, of his administration, the tribune Q. Metellus Nepos, instigated, it is said, by the party opposed to the Optimates and chiefly by Caesar, would not allow him to do more than make the usual declaration that he had done nothing contrary to Law. Upon this Cicero declared in the most solemn manner that he had saved his country, and the people responded that he had said no more than the truth (Cicero, To Q. Metellus Celer, Ad Fam. v. 2; Plutarch, Cicero, c. 23; Cicero, Pro Sulla, c. 11, note). Metellus Nepos continued his hostility to Cicero; and he even proposed that Pompeius and his army should be recalled from the east to restore the order, which, as he alleged, Cicero and his party had destroyed. M. Cato, who was then a 'tribunus plebis,' opposed the proposal of Metellus, and he was supported by the Senate. The streets of Rome became the scene of bloody riots, and Metellus, according to some accounts, being deprived of his tribunitian office, made his escape to

Pompeius, who arrived at Rome in the autumn of B.C. 62; and Metellus returned with him.

Cicero did not take his province of Gallia Cisalpina after his consulship. He gave it up to Q. Metellus Celer, the brother of Nepos, and one of the Praetors of the year 62; and he stayed at Rome to look after his own interests.

About the close of B.C. 62, in which year C. Julius Caesar was Praetor, Caesar's wife Pompeia and other women were celebrating in Caesar's house by night, according to custom, the mysteries of the Bona Dea (Cic. Ad Att. i. 13; Plutarch, Cicero, c. 28). P. Clodius Pulcher, a dissolute young patrician, who was supposed to have an intrigue with Caesar's wife, got into the house during the ceremony disguised as a female lute-player, but he was detected by the women and escaped through the assistance of a girl; or as Plutarch says, he was found in the chamber of a girl through whose help he got into the house (Plutarch, Cicero, c. 28; Caesar, c. 10). This scandalous affair was brought to the cognizance of the Pontifices, who declared it to be a violation of religion, and they ordered the religious ceremonies to be performed again. Caesar put away his wife. The Senate also took cognizance of the matter, and determined that there should be a judicial inquiry. But instead of the guilt of Clodius being the only thing to inquire about, it was made a party affair. A court was formed for the trial of Clodius, and fifty-six judices were named as the jury. Cicero says that the jury were a set of rascals, and were bribed, at least many of them. Thirty-one judices voted for Clodius, who was consequently acquitted (B.C. 61). Cicero was one of the witnesses against Clodius, who attempted to prove that he was not in Rome on the night of the mysteries. But Cicero declared that Clodius was in Rome on that day, and had been with him three hours before the time at which it was charged that he had entered Caesar's house. Cicero was vexed that the judices paid so little regard to his testimony, and after the acquittal he indulged in jokes and sarcasms, which he never could restrain, both against Clodius and the corrupted jury.

That party of the Senate to which Cicero had attached himself was the Optimates, as he called them, the men who saw with fear and jealousy the opportunity and the power which the long exercise of military command gave to daring men. At the head of the party opposed to Cicero was Caesar, who though too wise to form such a desperate attempt as Catilina, is suspected of having long had the design of usurping the supreme power. Pompeius had now returned from his eastern wars more powerful than ever, and Cicero, who had always flattered the man, looked to him for protection. But Pompeius, who had done many things in Asia which required the confirmation of

the Senate, was not yet ready to join any party. He wished for the support of Cicero and the Senate; and he wished for the favour of the people too. The Senate did not confirm all that he had done in Asia; and he failed also in an attempt to get his acts confirmed by the people.

Caesar had been governor of Hispania Ulterior during B.C. 61, and he was now returned to Rome (B.C. 60). To further his own views, as we may assume, he joined Pompeius, reconciled him with M. Crassus, the richest man in Rome and formerly his enemy, and promised to give Pompeius his assistance in procuring the confirmation of all that he had done in Asia. Among other things Pompeius had promised lands to his old soldiers; and his future credit depended in some measure on keeping this promise and on getting the Senate to confirm without further inquiry all that he had done in Asia. This union of Caesar, Pompeius, and Crassus (B.C. 60) (conspiratio, as the Romans sometimes called it) is very improperly named by some modern writers the first Triumvirate.

In B.C. 59 C. Julius Caesar was consul with M. Calpurnius Bibulus. Caesar wished to gain Cicero over, and he offered him the post of Legatus when he should take a province after the expiration of his consulship. Cicero refused an offer which might have saved him from his enemies, but would have carried him away from Rome and all that was most dear to him. When Caesar's Agraria Lex for the division of the Campanian lands was carried, Caesar proposed to Cicero to be one of the twenty commissioners for the division of the lands. Crassus and Pompeius were of the number. But Cicero refused this offer too. His conduct may have offended Caesar, who knew that such a man on his side would be a valuable friend, and might be as useful in sounding his praises when he should have gone to his Proconsular province, as he had been to Pompeius. Caesar perhaps could have protected Cicero against his enemies: it is certain that he did not. In this year Metellus Celer died, and his death made a vacancy in the college of Augurs. Cicero wished to have the place, and he says in a letter to Atticus (ii. 5) that this was the only thing by which he could be gained over by Pompeius and Crassus, and he means Caesar too. So it appears that if these men would have let him have the Auguratus, he was willing to join their party. In the same letter he speaks of a mission to the king of Egypt, which he might accept, if it were offered to him, though he fears what the Optimates will say if he accepts such a commission from Caesar and his friends. He might, however, he says, get some credit even by refusing it. He adds, if Theophanes, the Greek, a favourite of Pompeius, should say any thing on the matter, Atticus must not reject the proposal at once.

Clodius still cherished his old grudge. In order to be qualified to be

elected 'tribunus plebis,' he, who was a patrician, prevailed on P. Fonteius, a plebeian, a youth of twenty years of age or thereabouts, to adopt him as his son. The consequence of such an adoption, if it were done in due form, would be to make Clodius legally the son of Fonteius, to deprive him of his rank, to reduce him to the condition of a plebeian, but at the same time to make him eligible to be a 'tribunus plebis.' Cicero says that the adoption (adrogatio) could not be made because of the ages of the two persons, and that it was not effected in proper form. Caesar, who was Pontifex Maximus, had taken part in the ceremony of the adrogation, and Pompeius had assisted as Augur; Rome's two greatest commanders, both of them priests, taking part in a fraud under the name of religion. In December B.C. 59 Clodius entered on his duties as tribune, and brought forward several measures with the view of getting the favour of the Optimates as well as of the people. In the next year he made an indirect attack on Cicero by proposing a Rogatio to this effect, That whoever had put to death a Roman citizen without a trial and judgment should be laid under the interdict of fire and water. The Rogatio contained no person's name; and if it applied to any persons, it applied to all the members of the Senate who had voted for the execution of Lentulus and the other conspirators; M. Cato among the rest. It was however known that Cicero was the object of the Rogatio, and he admitted that he was by acting as if he had received notice of a formal prosecution. After Roman fashion he put on the dress of mourning or humiliation, and endeavoured to excite popular commiseration, forgetting that he who condemns himself, he who despairs of his own case, is not likely to get any help from others. Cicero knew this and had said it (Pro Murena, c. 21), but he did not practise what he taught. He had a large number in his favour; the best part of the Senate put on the mourning or humiliation dress to show their sympathy with their leader; and the Equites, whom he had always tried to conciliate, and many of the patrician youth, were on his side. The consuls L. Calpurnius Piso, Caesar's father-in-law, and A Gabinius, a tool of Cn. Pompeius, were against Cicero. Caesar would not help him; and even Pompeius, whom he had flattered on all occasions, refused his protection. Pompeius, it is said, went out of Rome to avoid seeing Cicero, a story which has probability in its favour from the character of Pompeius, who like many mean and irresolute men would keep well with all parties, and could not refuse plainly and boldly: "Pompeius hearing of Cicero's coming did not wait to see him, for he had a strong feeling of shame towards a man who had made great efforts on his behalf, and had carried many public measures to please him, but as he was Caesar's son-in-law, he gave up old obligations at his request, and slipping out by a different door evaded meeting with Cicero" (Plutarch, Cicero, c. 31). The

marriage of Pompeius with Caesar's daughter Julia took place in B.C. 59, the year of Caesar's consulship; and in the same year Caesar married Calpurnia, the daughter of L. Piso, one of the consuls of the year B.C. 58. Caesar, who had got Gallia Cisalpina and Transalpina with Illyricum for his province, was outside of Rome in the spring of B.C. 58. There is no reason why he should not have gone northward earlier than he did, for he was not a man who cared for seasons. He did not leave the neighbourhood of Rome, as he tells us (B. G. i. 7), until he heard of the movements of the Helvetii, and he was still at the gates of Rome while Cicero was on his way to the south of Italy (Dion Cassius, 38. c. 17; Pro Sestio, c. 18). He was waiting to see how this affair of Cicero would turn out.

The violence of Clodius and his rabble, the fears of Cicero, and the advice of Cato, Hortensius, and Atticus, made him determine to leave Rome. L. Lucullus, who was one of his friends, advised him to stay and to repel force by force. However he left Rome, as he afterwards said, to save bloodshed (Pro Sestio, c. 22). In the darkness of night he quitted the city in the month of April (Wolf says March) according to the Roman Calendar at that time (B.C. 58).

As soon as Cicero had left Rome, Clodius proposed and carried a Rogatio by which Cicero was laid under the Interdictio aquae et ignis, the effect of which was to prevent a man from living within the limits to which the interdiction extended (De Domo, c. 18). The Rogatio comprehended all places within four hundred Roman miles from Rome, and was equivalent to a sentence of expulsion from Italy. The consuls Piso and Gabinius were paid for their services to Clodius: Piso had the province of Macedonia, and Gabinius had Syria with extraordinary powers. Cicero's property was declared forfeited to the State; his house at Rome on the Palatine was plundered and destroyed; and his Tusculan and Formian villae were spoiled (Ad Att. iv. 2). The site on which his house on the Palatine stood was dedicated to Liberty, or as Cicero says (De Legg. ii. 17) more properly to Licentia (vexati nostri Lares familiares: in eorum sedibus exaedificatum templum Licentiae). His wife fled with her children to her half-sister Fabia, one of the Vestal virgins, but she was taken from the temple of Vesta to the bank called Valeria and compelled to give securities for the delivering up of such ready money of her husband as she had in her possession. The violence of these proceedings against Cicero was hardly covered by a show of legal formality, and a State in which such scandalous outrages could be committed was manifestly coming to that condition in which there is only one chance of safety and one necessary conclusion, the usurpation of the sovereignty by a man who commands the soldiers.

Cicero heard of these acts of violence when he was on his journey.

He intended to take refuge in Sicily, but the praetor C. Vergilius would not receive him, and after going as far as Vibo, he changed his route and went by land to Brundisium (Pro Cn. Plancio, c. 20). He sailed from Brundisium to Epidamnus, which the Romans called Dyrrachium, intending to seek a resting-place on the property which Atticus had in Epirus. But he soon moved further on and went to Thessalonica in Macedonia, where he was kindly received by the quaestor Cn. Plancius and furnished with all that he wanted. He mentions the devoted affection of Plancius in the speech in which he afterwards defended him on a charge of Ambitus; and he dwells particularly on one wretched night during which Plancius watched and wept with the whining orator and statesman whose philosophy when put to the test turned out to be a miserable self-delusion (Pro Plancio, c. 42).

To be driven disgracefully from Rome by a faction headed by a dissolute young man, to see all his past services forgotten, and to find most of his friends only concealed enemies, was a terrible calamity to an honourable man. The separation from wife and children, the destruction of his property, and of those works of art which he had collected with much care and at great cost, was a misfortune which would move our sympathy, if it had been endured with calmness and fortitude. But Cicero's letters during his exile to his wife and to Atticus, instead of moving our compassion for his sufferings, make us despise him. Such pitiable, childish sorrows, such idle unmanly talk of suicide, which we do not suppose that he ever seriously thought of, such complaints of every thing and every body, such injustice to many of his best friends, prove his character to have been mean and cowardly; and in spite of his great talents and many good qualities, we follow him in his subsequent career with a feeling of pity and almost of contempt. (Letters to Atticus, iii. 3, 1, 13, 19, 22; To Terentia, xiv. 4, 2, 3 [1].)

Cicero's friends at Rome were anxious to recall him from exile, and popular opinion, which he aptly compares to the wind, soon turned in his favour. On the kalends of June, about two months after he had left Rome, the tribune L. Ninnius Quadratus proposed in the Senate

[1] When Cicero was in Macedonia he chanced to meet with a certain Philiscus, whom he had known at Athens. The philosopher and the statesman had a long conversation, which Philiscus began in a very proper tone by saying: "Are you not ashamed, Cicero, of lamenting and behaving like a woman? for my part I could never have expected you to show yourself so weak, you who have had the advantage of much and varied discipline, and have acted as the adviser of many men." This is from Dion, who in twelve tedious chapters repeats the conversation of the Greek and the Roman (38. c. 18, &c.). Cicero was somewhat relieved by the talk. The reader certainly will not be relieved, if he ventures on it. This tasteless Greek, this corrupter of history, treats us with another piece of idle talk, when he reports a speech of Caesar to his soldiers before he marched against the German king (B. G. i. 40). Caesar does it short in his fashion, and we may suppose that he knew what he said. Dion gives us eleven chapters (38. c. 36—46).

Cicero's recall, but the measure was resisted by the consuls L. Piso and A. Gabinius, notwithstanding it was supported by Pompeius, whom Clodius had roused by his personal attacks. The tribune Aelius Staienus opposed the proposal of Ninnius (Pro Sestio, c. 31, 32), and Clodius was still in office and powerful. The Senate frequently pressed the matter, but they could do nothing (Ad Att. iii. 15; In Pisonem, c. 13). In November of the same year P. Lentulus Spinther, one of the 'consules designati,' made another unsuccessful attempt to recall Cicero; and Cicero's friend P. Sestius even went to Caesar in Gallia to solicit his favour, but we do not know what he got by his journey (Pro Sestio, c. 32; Ad Att. iii. 20 and 23).

On the 1st of January of the next year, B.C. 57, the consul Lentulus, who had now entered on his duties, proposed a resolution of the Senate for Cicero's recall, his colleague Metellus making no opposition; and it would have been carried, if the tr. pl. Atilius had not prevailed on the Senate to adjourn the business (Pro Sestio, c. 34). A few days before the end of the month of January (the 25th) a Rogatio was proposed for the recall of Cicero, but the business of the day was disturbed by a bloody riot. The enemies of Cicero occupied the Forum, the Comitium, and the Curia, the night before with armed men, and attacked the tribune Q. Fabricius who had proposed the Rogatio with the consent of seven other 'tribuni.' P. Sestius and Cicero's brother Quintus were wounded (Pro Sestio, c. 35; Pro Milone, c. 14; Dion Cassius, 39. c. 7). Men were cut down in the Forum, the Tiber was filled with dead bodies, the sewers were choaked, and the blood was wiped up from the Forum with sponges. Such is the frightful picture, perhaps somewhat exaggerated, which Cicero draws of this terrible commotion.

Several Senatusconsulta were passed in favour of Cicero, but it is immaterial to examine whether there were three or five, as some suppose (Pro Sestio, c. 54, 60; Pro Plancio, c. 32; De Prov. Cons. c. 9). Finally pursuant to a Senatusconsultum a Rogatio was proposed to the people in the Comitia Centuriata and carried on the 4th of August, B.C. 57, by all the Centuriae. The people came from all parts of Italy to vote for the Rogatio; and the Campus Martius was crowded with men (Ad Att. iii. 26; In Pison. c. 15; Pro Milone, c. 15).

Cicero who had long and anxiously been expecting this successful result, had moved from Thessalonica to Dyrrachium. He left Dyrrachium on the day on which the Rogatio was carried, and he arrived at Brundisium the next day. His daughter Tullia was waiting for him, and he was joyfully received by the people of Brundisium. His journey to Rome was like a triumphal procession. He was met outside the walls by a crowd of his fellow-citizens who conducted him to the Capitol

and thence to his own house. It was the 4th of September, B.C. 57, when he entered Rome (Pro Sestio, c. 63; In Pison. c. 22).

On the next day he thanked the Senate for their services to him in a speech entitled Quum Senatui gratias egit or Oratio post reditum in Senatu (Ad Atticum, iv. 1).

There is an edition of four orations of Cicero by F. A. Wolf with this title: "M. Tullii Ciceronis quae vulgo feruntur orationes quatuor. I. Post Reditum in Senatu. II. Ad Quirites Post Reditum. III. Pro Domo sua ad Pontifices. IV. De Haruspicum Responsis. Recognovit Animadversiones integras I. Marklandi et I. M. Gesneri suasque adjecit Frid. Aug. Wolfius. Berolini, 1801." Wolf's preface contains the history of the controversy about these four orations, and some general remarks on them. Markland was the first who called in question the genuineness of these orations, "Remarks on the Epistles of Cicero to Brutus and of Brutus to Cicero; in a letter to a friend. With a Dissertation upon four orations ascribed to M. Tullius Cicero, &c. London, 1745." Gesner in two Praelections 1753, 1754 (Tom. iii. Commentariorum Soc. Reg. Göttingensis), intitled "Cicero Restitutus," answered Markland's objections; and it was supposed that he had answered them so completely that the controversy was settled and the four orations must pass for genuine. Wolf observes that accordingly these orations are now not only printed among the other works of Cicero, but one or two have been admitted for their peculiar elegance among the *Select* orations of Cicero for the study of youth.

Opinion was in favour of the genuineness of these orations at the time of Wolf, who observes that there is also in their favour the testimony of Asconius Pedianus, Quintilian, perhaps Ammianus Marcellinus, and others of less note, as Mamertinus Junior, Servius, the commentator of Virgil, the rhetoricians Aquila and Rufinianus, perhaps also Dion Cassius, Lactantius, Charisius, and perhaps others who may have escaped his notice. He remarks that frauds of this kind have often been committed, and that spurious writings have been ascribed to Cicero, such as the Oratio pridie quam in exsilium iret, the oration In C. Sallustium Crispum, an Oratio de Pace, and an Oratio in Valerium; and that we might have had many more, if the declamations had not been lost which were written in the time of Seneca on the same subjects as Cicero's genuine speeches [2].

[2] Excerptorum Controv. iii. Praef. about one Cestius: "Pueri fere aut juvenes scholas frequentant. Hi non tantum disertissimis viris, quos paulo ante retuli, sed etiam Ciceroni Cestium suum praeferrent, nisi lapides timerent. Quo tamen uno modo possunt, praeferunt: hujus enim Declamationes ediscunt; illius orationes non legunt nisi eas, quibus Cestius rescripsit." Quintilian (x. 5, 20) mentions this Cestius or Sestius, and makes a

The external evidence for the genuineness of these orations is as good as the evidence for any other orations of Cicero; and it must be some very strong reasons which can justify a declaration that they are spurious. Wolf states the various matters on which a judgment of any writer must be founded. We must examine his form of expression, the language that he uses, the words severally and the way in which they are placed. We expect to find a certain uniformity in a writer; and we do not expect an oration which passes under Cicero's name to be so different from his other orations that we perceive the difference as soon as we begin to read it. Next to the propriety of the language, we consider the manner in which the matter is treated; the whole discourse, and the connexion of the parts; or as Wolf calls it "logicam veritatem sententiarum sine qua ex verbis rectissime positis inanis et futilis strepitus nascitur." Or we may take Cicero's own opinion: "tria videnda sunt oratori, quid dicat, et quo quidque loco, et quomodo" (Orator, c. 13). In the third place, Wolf says, we must consider the elegance and other rhetorical merits of the composition. Fourthly, we come to the examination of historical mistakes. Cicero was not always exact in his statement of historical facts; but we have to consider whether he could make the mistakes which appear in these orations; if he could fall into such contradictions and make such exaggerations. Indeed Wolf advises us not to take as true any thing in these orations, unless it is supported by better authority. His remark applies particularly to the oration De Domo, which the jurisconsults have taken as authority in some things which relate to their science. But, as he says, there is no doubt that the writer used some orations of Cicero, which are now lost, taking both the facts and the language; which will explain how it happens, that there are many parts in these orations completely in the style of Cicero. Wolf further conjectures, and I think it is a reasonable conjecture, that on examining the passages which Asconius, Aquila, and Rufinianus have cited from the two last of these orations and comparing them with the present text, we see that the writer simply varied whole passages in his original, interpolated them, and put them on the scholastic anvil. And he adds if this conjecture shall not displease the learned, the number of the ancient authorities in favour of these orations will be much diminished, since the orations De Domo and De Haruspicum responsis, which Asconius, Quintilian, and others cite, may not be those which we now have.

In the fifth place Wolf mentions a thing which is easier felt than reduced to exact rules, "civilis prudentia quaedam." We expect a

good remark on his perverse industry: "Melius hoc quam rescribere veteribus orationibus, ut fecit Sestius contra Ciceronis actionem habitam pro Milone, quum alteram partem satis nosse non posset ex sola defensione."

statesman and a Roman to speak like one; and if he does not, we suspect that somebody is using his name. Cicero certainly showed little spirit in his exile, and in his letters he speaks only of himself. He says nothing about the state, and there is no evidence in his letters that he cared for it. He returned in ill humour, no doubt, but he could never have made the first two of these speeches, if he had not entirely lost his judgment, and almost his understanding.

The sixth thing to observe, says Wolf, is the peculiar style or character of a writer; for the style, as it has been said, is the man. Every writer has a manner of his own, good or bad. It is so, as Wolf observes, with other arts, music, painting, sculpture, for there never was a great artist, who had not a peculiar style; and so true is this that the commonest observer knows the work of a great master as soon as he sees it. In architecture, in sculpture, and we may assume in painting too, the Greeks did what will never be done again. It is so with writing. The Greek and Roman writers had a language which they have used with an art that leaves all modern writers behind them; and I suppose it will not be affirmed that there is any thing in any modern language which is equal to the best specimens of Cicero. A man then whose judgment is formed by a good discipline and who has a competent knowledge of the Latin language will know whether a work which passes under Cicero's name is his or not. It is not a question for learned critics to decide who look at words more than thoughts: it is a matter in which a sound judgment is necessary; and to all those who have it, the question of the genuineness of these orations must be referred. It seems presumptuous for any man to declare himself against the genuineness of certain speeches of Cicero which many good scholars have read without suspicion and have even admired. But a man may have learning, as it is called, without understanding, taste, or judgment, of which there are many notorious examples. It is also notorious how little profit many men get from the books of antiquity, and yet spend their lives over them. They converse daily with the best men and greatest men that have lived, and read their thoughts expressed in the best language that man has yet found, and yet they are neither wiser nor better than other people, and often neither so wise nor so good.

I wished to omit these four tedious orations, but they are still considered genuine by many scholars, and in the last edition of Orelli they are placed with the rest in the body of the orations and in the order of time. I have therefore read them carefully and made such notes as were necessary for the double purpose of explaining them and proving them to be spurious; and many notes are necessary for this purpose. No student should read these orations until he knows Cicero's orations

well, and particularly those which Markland supposes that the falsifier made most use of, the oration In Pisonem and that Pro P. Sestio; for these four orations are from one hand, which is as plain as that they are not from the hand of Cicero.

Those who will undertake the defence of these orations will find more to do than those who pronounce them not to be Cicero's. Any person who has leisure and no better employment may perhaps in some cases show that what Markland and Wolf have supposed not to be Latin or Ciceronian is both Latin and Ciceronian: he may show that some of the objections urged against the genuineness of the orations may be answered; and that there are many parts which may be the pure words of Cicero. All this I admit; but he will never convince any man of sense that the first of Roman writers, a man of good understanding and a master of eloquence, put together such tasteless, feeble, and extravagant compositions. Whatever may be the judgment of those who affect to judge, I would rather they should take me to be as ignorant as they please of Latin and any thing else, than for a man who can admire what it is intolerable for me to read and impossible for me to admire.

I have copied many of Wolf's notes instead of giving the meaning in English. I do not think that a mixture of English and Latin notes is a good thing, nor that it is generally liked; and in the notes to the other orations I have generally stated in English what a commentator has said in Latin. But in such a case as this, it is better to print many of Wolf's remarks in the original, for a great part of their merit is in the form. It is not necessary for me to say who he was and what he was. Every sensible scholar respects his name and can read what he says with pleasure, even if he differs from him. He is one of the few critics who is never dull, and always instructive.

Halm is the editor of the oration Quum Senatui Gratias egit in the second edition of Orelli's orations of Cicero, and of the oration Quum Populo.

The MSS. to which he refers in the oration Quum Senatui are

P = Codex Parisinus num. 7794 a me collatus.

G = Codex Gemblacensis, nunc Bruxellensis num. 5345 a Baitero collatus.

E = Codex Erlangensis 38 a me collatus.

F = Lectiones codicis Pithoeani a me iterum post Graevium ex margine exempli Lambiniani, quod Heidelbergae adservatur, exscriptae.

S = Cod. Salisburgensis aulicus no. 34 (cod. lat. Monac. 15734) a me collatus.

M. TULLII CICERONIS

ORATIO

QUUM SENATUI GRATIAS EGIT.

I. Si, patres conscripti, pro vestris immortalibus in me fratremque meum liberosque nostros meritis parum vobis cumulate gratias egero, quaeso obtestorque ne meae naturae potius quam magnitudini vestrorum beneficiorum id tribuendum putetis. Quae tanta enim potest exsistere ubertas ingenii, quae tanta dicendi copia, quod tam divinum atque incredibile genus orationis, quo quisquam possit vestra in nos universa promerita non dicam complecti orando, sed percensere numerando? qui mihi fratrem optatissimum, me fratri amantissimo; liberis nostris parentes, nobis liberos; qui dignitatem, qui ordinem, qui fortunas, qui amplissimam rem publicam, qui patriam, qua nihil potest esse jucundius, qui denique nobis nosmetipsos reddidistis. Quod si parentes carissimos habere debemus, quod ab iis nobis vita, patrimonium, libertas, civitas

Oratio quum, &c.] This is the title of the oration in P. G. and in the Schol. Bob. The Erf. has "Incipit oratio M. T. Ciceronis cum de reditu suo senatui gratias egit." There are other varieties. The title in the printed books is generally "Post reditum in Senatu."

1. *cumulate*] See Pro Flacco, c. 36, where he uses 'cumulate.' Wolf says that 'cumulate gratias agere' occurs nowhere else in Cicero, though Cicero has 'cumulate referre gratiam.'—'orando,' P. G.; 'ornando,' E. F. S. The word 'orando' seems the more appropriate, as Wolf observes, for 'complecti orando' is the same as 'complecti oratione.' In the oration Quum Populo Gratias, there is (c. 21) 'ornare oratione.' If we take the reading 'complecti ornando,' we must interpret it, as Garatoni does, as equivalent to 'ornare,' and 'percensere numerando' as equivalent to 'enumerare.' There is also a reading 'enumerando.' Klotz has a long note on 'promerita,' the substance of which is that 'promerita' is a stronger expression than 'merita.' Halm cites the reading 'merita' from the 'Cod. Henr. Stephani.' The word 'promeritum' occurs only here and in the oration Quum Populo, c. 4; the verbal form 'promerendi' is in the Pro Murena, c. 34.

qui fortunas,] His property was restored to him and the losses were made good, as he says in a letter to Atticus (iv. 2). But he was not satisfied with the compensation: "Nobis superficiem aedium (the ground) consules de consilii sententia aestimarunt H-S vicies; cetera valde illiberaliter: Tusculanam villam quingentis millibus; Formianum H-S ducentis quinquaginta millibus. Quae aestimatio non modo vehementer ab optimo quoque, sed etiam a plebe reprehenditur."

tradita est; si deos immortales, quorum beneficio et haec tenuimus et ceteris rebus aucti sumus; si populum Romanum, cujus honoribus in amplissimo consilio et in altissimo gradu dignitatis atque in hac omnium terrarum arce collocati sumus; si hunc ipsum ordinem, a quo saepe magnificentissimis decretis sumus honestati; immensum quiddam et infinitum est quod vobis debeamus, qui vestro singulari studio atque consensu parentum beneficia, deorum immortalium munera, populi Romani honores, vestra de me multa judicia nobis uno tempore omnia reddidistis, ut, quum multa vobis, magnà populo Romano, innumerabilia parentibus, omnia diis immortalibus debeamus, haec antea singula per illos habuerimus, nunc universa per vos recuperaverimus.

II. Itaque, patres conscripti, quod ne optandum quidem est homini, immortalitatem quandam per vos esse adepti videmur. Quod enim tempus erit umquam, quum vestrorum in nos beneficiorum memoria ac fama moriatur, qui illo ipso tempore, quum vi, ferro, metu, minis obsessi teneremini, non multo post discessum meum me universi revocavistis, referente L. Ninnio, fortissimo atque

honoribus] The 'honores' conferred by the Roman people gave a man the capacity of entering the Senate (amplissimum consilium). The 'quaestura' qualified a man for the Senate. The 'altissimus dignitatis gradus' is the consulship; and the 'omnium terrarum arce' is the Curia, as Manutius correctly explains it. In the oration Pro Sulla, c. 11, he calls Rome "arcem regum ac nationum exterarum." See the oration Pro Milone, c. 33, "templum sanctitatis," &c.

Wolf finds fault with the end of the sentence 'ut, quum multa . . . recuperaverimus,' in which nothing fresh is said, and the climax is made in very inept terms, 'multa, magna, innumerabilia;' the last of which (innumerabilia) have already been numbered, and they are four; therefore not past numbering. Klotz remarks that those only could mistake the sense of the first part of the sentence (cujus honoribus . . . collocati sumus) who took offence at the very natural climax 'multa, magna, innumerabilia, omnia.' This is an answer to Wolf, whom he does not name, and a specimen of his way of defending the Declamator.

quod vobis debeamus,] '*debeamus* mei et Lag. omnes,' Halm, who explains it 'immensum vobis deberi nobis videmur (ὀφείλοιμεν ἄν),' which is not the true explanation. 'Quod vobis debeamus' is simply 'the debt.' He does not say 'id quod vobis debemus immensum,' &c.; but he puts it in another and a more general form. See Pro Sulla, c. 7, note on 'qui ex municipiis veniant.'

2. *immortalitatem*] Wolf compares In Pis. c. 3: "Mihi populus Romanus universus illa in contione non unius diei gratulationem, sed aeternitatem immortalitatemque donavit." See Pro Sestio, c. 54, "plausum immortalitatem."

quum vestrorum] E. S. have 'quo' in place of 'quum' or 'cum.'

L. Ninnio,] On the first of June, B.C. 58. (See the Introduction.) This is one of the passages which Wolf alleges as evidence of this speech being the work of some declamator. He says, "No, the Senate spoke freely even in the third month after Cicero's departure, since on the motion of Ninnius a full Senate voted for Cicero's recall, and only one tribune opposed it; for which we have the evidence of the speech Pro Sestio, c. 31." This discrepancy seems to me to have no great weight as an argument against the genuineness of this speech; but in these spurious orations we find every thing magnified; and this passage is one of those in which facts are stated stronger than in the genuine speeches. Indeed they are different facts, for in the oration Pro Sestio (c. 31) it is not said that the Senate was threatened at that time.

The 'eum tribunum' whom he does not name is perhaps Aelius Staienus. This is

optimo viro? quem habuit ille pestifer annus et maxime fidelem, et minime timidum, si dimicare placuisset, defensorem salutis meae. Posteaquam vobis potestas decernendi non est permissa per eum tribunum plebis, qui, quum per se rem publicam lacerare non posset, sub alieno scelere delevit, numquam de me siluistis, numquam meam salutem non ab iis consulibus qui vendiderant flagitavistis. Itaque vestro studio atque auctoritate perfectum est ut ipse ille annus, quem ego mihi quam patriae malueram esse fatalem, octo tribunos haberet, qui et promulgarent de salute mea et ad vos saepenumero referrent. Nam consules modesti legumque metuentes impediebantur lege, non ea quae de me, sed ea quae de ipsis lata erat, quam meus inimicus promulgavit, ut si revixissent ii qui haec paene delerunt, tum ego redirem: quo facto utrumque confessus est, et se illorum vitam desiderare, et magno in periculo rem publicam futuram, si quum hostes atque interfectores rei publicae revixissent,

the man who is mentioned in the oration Pro Cluentio, c. 26, and the writer seems here to allude to his scandalous conduct as a judex. He opposed the proposal of Ninnius (Pro Sestio, c. 31) at the instigation of Clodius (sub alieno scelere); but these words have been explained differently. It is usual for this writer to leave us in doubt about his meaning.

qui vendiderant] 'qui rem p. vendiderant,' E. F. He means 'qui vendiderant salutem:' they had sold Cicero to Clodius for their provinces. Piso had Macedonia and Gabinius had Syria (De Domo, c. 26).

fatalem,] Markland has a note on 'fatalis' and the verb 'malle.' 'Fatalis' being that which is determined by Fatum, that which must happen (In Cat. iii. 4; iv. 1), it would be an inconsistency for Cicero to say that he preferred this year being fatal, in the Roman sense, to himself rather than to his country. But 'fatalis' has also the sense of 'perniciosus,' as it has here, but, adds Markland, with the addition of the signification of a certain Fatum which is the cause of the evil. But the word could not be used here in either sense. The conclusion is that Cicero did not write this passage.

Gesner gave an answer to this criticism of Markland, and a pretty good answer. But Wolf still maintained that Cicero could not write thus.

octo] 'hoc,' P.; 'hos,' G. Eight tribunes were ready 'promulgare,' and two refused.

consules modesti] He is sneering at the consuls of B.C. 58, L. Calpurnius Piso and A. Gabinius, who affected to be unable to do any thing because Clodius had carried a Lex which forbade any one from proposing Cicero's recall (Pro Sestio, c. 32; De Domo, c. 26). A passage in a letter to Atticus makes this plain (iii. 15): "Ast tute scripsisti ad me quoddam caput legis Clodium in curiae poste fixisse, Ne referri neve dici liceret."

quam meus] 'quam' is Lambinus' emendation. The MSS. have 'cum,' as Halm says. If some of them have 'quum,' which may be the case, it is easier to understand how the mistake arose. The common reading is 'quum . . . promulgavit;' for which Ernesti would write 'quum . . . promulgavisset.'

si quum hostes . . . revertissem.] The reading of E. F. P., which Wolf had conjectured to be the true reading. But P. has 'sicut ostes' and F. has 'si eum hostes.' The reading of the other MSS. and the common reading of the editions is 'si aut hostes . . . aut ego non revertissem.' There is now no occasion to recur to Manutius' explanation of the common reading, which explanation Klotz considers to be quite right. The play on the words 'si revixissent ii,' &c. is mere trifling. Clodius of course meant to say that Cicero should not return till the men came to life again who had been punished for their share in Catilina's conspiracy; which was the same thing as saying that he should never return. The writer gives the words another meaning.

The 'interfectores rei publicae' is a strange expression. I do not know that it is Ciceronian. Markland thinks that it is

ego non revertissem. Atque illo ipso tamen anno, quum ego cessissem, princeps autem civitatis non legum praesidio sed parietum vitam suam tueretur, res publica sine consulibus esset, neque solum parentibus perpetuis, verum etiam tutoribus annuis esset orbata, sententias dicere prohiberemini, caput meae proscriptionis recitaretur, numquam dubitastis meam salutem cum communi salute conjungere. III. Postea vero quam singulari et praestantissima virtute P. Lentuli consulis ex superioris anni caligine et tenebris lucem in re publica Kal. Jan. dispicere coepistis; quum Q. Metelli nobilissimi hominis atque optimi viri summa dignitas, quum praetorum, tribunorum plebis paene omnium virtus et fides rei publicae subvenisset; quum virtute, gloria, rebus gestis Cn. Pompeius, omnium gentium, omnium saeculorum, omnis memoriae facile princeps, tuto se venire in senatum arbitraretur; tantus vester consensus de salute mea fuit, ut corpus abesset meum, dignitas jam in patriam revertisset. Quo quidem mense quid inter me et meos inimicos interesset existimare potuistis. Ego meam salutem deserui ne propter me civium vulneribus res publica cruentaretur: illi meum reditum non populi Romani suffragiis sed flumine sanguinis intercludendum putaverunt. Itaque postea nihil vos civibus, nihil sociis, nihil regibus respondistis; nihil judices sententiis, nihil populus suffragiis, nihil hic ordo auctoritate declaravit; mutum forum, elinguem curiam, tacitam et fractam civitatem videbatis. Quo quidem tempore, quum is excessisset, qui caedi et flammae vobis auctoribus restiterat, cum ferro et facibus homines tota urbe volitantes, magistratuum tecta impugnata, deorum templa inflammata,

no better than one which Cicero condemns (De Or. iii. 41): "Africani morte castrata erat Res Publica," where he is speaking of metaphor (verbi translatio).

princeps . . . civitatis] Cn. Pompeius. Compare Pro Sestio, c. 32; Pro Milone, c. 7; Plutarch, Pompeius, c. 49: "Pompeius alleging these proceedings as his excuse, and besides that, being afraid of the insolence and abuse of Clodius, came no more into the Forum so long as Clodius was in office, but kept to his house."

sine consulibus] He means to say that Piso and Gabinius did not deserve the name of consuls. The 'tutoribus annuis' must be the magistrates generally; but it is doubtful what he means by 'parentibus perpetuis.' Klotz supposes that he means the Senate; and perhaps he is right.—'caput meae proscriptionis:' the chapter of the Lex of Clodius mentioned in the letter to Atticus.

3. *P. Lentuli*] One of the consuls of B.C. 57.—'corpus . . . dignitas:' in the oration Pro Sulla, c. 11, there is according to the reading of some MSS. an opposition between 'animi' and 'corpus.' Here the conclusion of this sentence, the 'corpus' and the 'dignitas,' is singularly flat.

nihil sociis, nihil regibus] All public business was suspended; or as he says Pro Sestio, c. 31: "omnia Senatus rejiciebat, nisi de me primum consules rettulissent." Compare In Pis. c. 14. No answer was given to the Socii or Provinciales, none to the kings whose embassies were waiting for an audience.

Wolf considers the expression 'declaravit' as evidence of the hand of the forger, for 'decernere' and other words would be the proper terms.

impugnata,] There is also a reading 'oppugnata,' the more usual word.

summi viri et clarissimi consulis fasces fractos, fortissimi atque optimi viri, tribuni plebis, sanctissimum corpus, non tactum ac violatum manu, sed vulneratum ferro confectumque vidistis. Qua strage nonnulli permoti magistratus, partim metu mortis, partim desperatione rei publicae, paullulum a mea caussa recesserunt; reliqui fuerunt quos neque terror, neque vis, nec spes, nec metus, nec promissa, nec minae, nec tela, nec faces a vestra auctoritate, a populi Romani dignitate, a mea salute depellerent.

IV. Princeps P. Lentulus, parens ac deus nostrae vitae, fortunae, memoriae, nominis, hoc specimen virtutis, hoc indicium animi, hoc lumen consulatus sui fore putavit, si me mihi, si meis, si vobis, si rei publicae reddidisset. Qui ut est designatus, numquam dubitavit sententiam de salute mea se et re publica dignam dicere. Quum a tribuno plebis vetaretur, quum praeclarum caput recitaretur, ne quis ad vos referret, ne quis decerneret, ne disputaret, ne loqueretur, ne pedibus iret, ne scribendo adesset, totam illam, ut ante dixi, proscriptionem, non legem putavit, qua civis optime de re publica meritus nominatim sine judicio una cum senatu rei publicae esset ereptus. Ut vero iniit magistratum, non dicam, quid egit prius, sed quid omnino egit aliud nisi ut me conservato vestram in posterum dignitatem auctoritatemque sanciret? Dii immortales, quantum mihi beneficium dedisse videmini, quod hoc anno P. Lentulus consul est! quanto majus dedissetis, si superiore anno fuisset! nec enim eguissem medicina consulari, nisi consulari vulnere

fasces fractos,] The commentators are not agreed whether the 'fasces' of Lentulus or of Metellus were broken. Markland supposes that it was neither one nor the other, and that all this is an invention of the forger; for neither any other writer mentions this, nor Cicero, though he says so much about these matters in the oration Pro Sestio, c. 32. The 'tribunus' who was wounded was P. Sestius (Pro Sestio, c. 37). "They appear to have been the 'fasces' of Lentulus" (Klotz). How do they appear?

The words 'is excessisset' at the beginning of the sentence refer to Cicero, and Ernesti rightly viewed the expression as very strange, for Cicero had left Rome long before these disturbances. A person, who knew nothing of the facts, would conclude that all this took place, 'quum Cicero excessisset,' and he might suppose that Cicero's departure was the cause of it. But 'excessisset' is not the proper word, as Wolf observes. It should have been 'cessisset' or 'discessisset.'

nonnulli . . . magistratus,] "Who these timid men were," says Wolf, "no one has told us or ever will tell us." This is the best answer to any inquiries about them.

4. *ne quis ad vos . . . adesset,*] These words are printed in some editions in capitals, as if they were the words of the Lex; but it is certain that they are not. Markland pointed out the absurdity of the expression 'ne pedibus iret' without the addition of the words 'in sententiam.' If they are the words of a Lex, they are only part of the words, just sufficient to indicate what was meant. Wolf adds that the words 'disputaret' and 'loqueretur' are not appropriate words in a Rogatio; and 'ne quis decerneret' seems a false expression, for it is the Senatus 'qui decernit.'

'Nominatim' refers to the second Lex of Clodius, which pronounced the 'interdictio' of fire and water against Cicero after he had left Rome. The first Lex of Clodius did not mention Cicero's name (Introd.).

quanto majus] 'quo quanto magis,' S.; and many editions.

consulari vulnere] The consuls Piso and

concidissem. Audieram ex sapientissimo homine atque optimo civi et viro, Q. Catulo, non saepe unum consulem improbum, duos vero numquam [post Romam conditam] excepto illo Cinnano tempore fuisse. Quare meam caussam semper fore firmissimam dicere solebat, dum vel unus in re publica consul esset. Quod vere dixerat, si illud de duobus consulibus, quod ante in re publica [non] fuerat, perenne ac proprium manere potuisset. Quod si Q. Metellus illo tempore consul fuisset inimicus, dubitatis quo animo fuerit in me conservando futurus, quum in restituendo auctorem fuisse ascriptoremque videatis? Sed fuerunt ii consules, quorum mentes angustae, humiles, pravae, oppletae tenebris ac sordibus, nomen ipsum consulatus, splendorem illius honoris, magnitudinem tanti imperii nec intueri nec sustinere nec capere potuerunt: non consules, sed mercatores provinciarum ac venditores vestrae dignitatis. Quorum alter a me Catilinam amatorem suum multis audientibus, alter Cethegum consobrinum reposcebat; qui me duo sceleratissimi post hominum memoriam, non consules, sed latrones, non modo deseruerunt in caussa praesertim publica et consulari, sed prodiderunt, oppugnarunt, omni auxilio, non solum suo, sed etiam vestro ceterorumque ordinum, spoliatum esse voluerunt. V. Quorum alter tamen neque me neque quemquam fefellit. Quis enim ullam

Gabinius inflicted the wound of his exile, as he means to say; and Lentulus applied the 'medicina consularis.' This was very proper.—Q. Catulus is the son of the Catulus who perished in Marius' proscription.

Cinnano] The reading of E. P has 'germano,' but the word is erased and the margin has 'cesonino,' which is also the reading of G. S has 'cesonini.' "Codd. quoque Lag. omnes mendosi sunt" (Halm). Klotz has kept 'Caesonino,' with the singular remark that if the reading is genuine, the words 'excepto . . . tempore' are the words of Cicero, and not of Catulus. I do not know how 'Caesonino' can be understood, for I do not suppose that it can be explained by the fact of L. Calpurnius Piso having the agnomen 'Caesoninus.'

The words 'post Romam conditam' are in E. F., but Halm omits them. In the times of Cinna there were two bad consuls at once, as he means to say, Cinna himself and Carbo in B.C. 85, 84. Catulus said that Cicero's case was safe, so long as there was one consul, one good consul in the state. The sentence 'Quod dixerat . . . potuisset' is confused. Wolf saw that 'non' before 'fuerat' was out of place. E omits the 'non.' Halm remarks that the reading of the other MSS "hanc habet bonam sententiam: quod ante in re p. non fuerat, ut umquam ambo improbi essent." But this contradicts the remark of Catulus, which has been accepted as true. Yet the writer has expressed himself in so confused a way, that we hardly know what meaning to give to his words.

Q. Metellus . . . inimicus,] S has 'non inimicus.' The ed. Junt. has 'unicus.' Halm thinks that 'inimicus' is a 'manifestum glossema.' I should think so too, if Cicero wrote the speech. If he did not, it is as likely to be from the author's hand as from any other.

ii consules,] The other reading is 'duo.' Halm says "P. G. *ii*, quod etiam II legere possis" Lambinus thought that 'consules' should be omitted, as being inconsistent with what the writer repeats several times, that Piso and Gabinius were not consuls. On which Wolf remarks: "mihi contra non videtur tam acutus fuisse Declamator oblitus Ciceronis sui p. Sext. § 17" (Pro Sestio, c. 7: "consules? hocine ut ego nomine appellem").

5. *Quorum alter tamen*] Gabinius is meant, which is shown by the words 'rogationem de piratico bello tulisset;' for Gabinius

ullius boni spem haberet in eo, cujus primum tempus aetatis palam fuisset ad omnium libidines divulgatum? qui ne a sanctissima quidem parte corporis potuisset hominum impuram intemperantiam propulsare, qui quum suam rem non minus strenue quam postea publicam confecisset, egestatem et luxuriam domestico lenocinio sustentavit, qui, nisi in aram tribunatus confugisset, neque vim praetoris, nec multitudinem creditorum nec bonorum proscriptionem effugere potuisset. Quo in magistratu nisi rogationem de piratico bello tulisset, profecto egestate et improbitate coactus piraticam ipse fecisset; ac minore quidem cum rei publicae detrimento quam quod intra moenia nefarius hostis praedoque versatus est; quo inspectante ac sedente legem tribunus plebis tulit, ne auspiciis

proposed the Rogatio which gave Pompeius the command in the war against the pirates.

The foul allusions of the writer in the words 'amatorem suum' (c. 4) 'ne a sanctissima quidem parte corporis' require no explanation. Hotmann has a singularly silly note on this passage, for which he is reproved by Graevius; and Wolf says of it, "Mirere ubi hanc partem quaesierit Hotomanus de mysteriis quibusdam loquens quae maxime occultentur idemque comparat pseudothyrum c. 6." But the Declamator is not satisfied with saying this once. He says it again with some small variation (De Domo, c. 24).

aram tribunatus] The sanctity of the tribunate protected him against the praetor's authority during his year of office, against his creditors, and against being sold up (bonorum proscriptionem; Vol. II. Pro P. Quintio, c. 15, note).

quo inspectante] This is explained by a passage in the oration Pro Sestio, c. 15, "iisdem consulibus (Piso and Gabinius) sedentibus," &c. The transition from Gabinius' tribunate to his consulship is very abrupt, and the passage would be unintelligible if we did not know the facts. Klotz says that this hasty transition is not so offensive as Wolf assumes it to be. Let each man judge.

auspiciis] The effect of such a Rogatio was to abolish the religious ceremonial with which all public business commenced; and to nullify the 'obnuntiatio,' which was a declaration by an augur or competent magistratus that some bad omen prevented the meeting (concilium) or Comitia from being held.

The passages which relate to the Lex Aelia et Fufia are collected in Orelli's Index Legum. Cicero often mentions the Lex. In the oration De Haruspicum Responsis, c. 27, the writer speaks of the two Leges Aelia et Fufia. Orelli thinks it probable that there was only one Lex, but it is a difficult matter to decide. One object of the Lex or of the Leges was to give to Magistratus the power of preventing or dissolving the Comitia by the 'obnuntiatio' (Pro Sestio, c. 15; Phil. ii. c. 32). The date of the Lex or of the Leges is not certain; but they were in force before the troublesome times of the Gracchi. In the oration against Piso (c. 5) he mentions the enactment of the Lex Aelia et Fufia as having been made about a hundred years before the time to which he there alludes. There is a remark at the end of the sentence (quae nostri majores . . . voluerunt) which is Cicero's. The nature of the 'tribunitia potestas' has been explained (Vol. II. De Lege Agraria, ii. c. 37). It was the Roman liberty. But it required curbing sometimes, and it was curbed by religion. Machiavelli has well comprehended the religious principle of the Roman State in a few chapters (Discorsi, 1, cc. 12—15). He begins by saying that "those princes or those states, which would maintain themselves uncorrupted, must above every thing maintain incorrupt the ceremonies of religion and keep them in veneration." The nobles made use of religion to check the violence of the popular party headed by the Tribuni; and though the nobles often cared not for religion, the people did. Clodius by his measures was destroying the foundations on which the existence of Rome reposed; and it was inevitable that there must be a revolution when the respect to religion and its ceremonial was gone. Machiavelli says when he is speaking of the agitation of

obtemperaretur, ne obnuntiare concilio aut comitiis, ne legi intercedere liceret; ut lex Aelia et Fufia ne valeret; quae nostri majores certissima subsidia rei publicae contra tribunicios furores esse voluerunt. Idemque postea, quum innumerabilis multitudo bonorum de Capitolio supplex ad eum sordidata venisset, quumque adolescentes nobilissimi cunctique equites Romani se ad lenonis impudicissimi pedes abjecissent, quo vultu cincinnatus ganeo non solum civium lacrimas, verum etiam patriae preces repudiavit. Neque eo contentus fuit, sed etiam in contionem escendit, eaque dixit quae, si ejus vir Catilina revixisset, dicere non esset ausus: se Nonarum Decembr. quae me consule fuissent clivique Capitolini poenas ab equitibus Romanis esse repetiturum; neque solum id dixit, sed quos ei commodum fuit compellavit: L. vero Lamiam, equitem Romanum, praestanti dignitate hominem et saluti meae pro familiaritate, rei publicae pro fortunis suis amicissimum, consul imperiosus exire [ex] urbe jussit: et quum vos vestem mutandam censuissetis cunctique mutassetis, atque idem omnes boni jam ante fecissent, ille unguentis oblitus, cum toga praetexta, quam omnes praetores aedilesque tum abjecerant, irrisit squalorem vestrum et luctum gratissimae civitatis; fecitque, quod nemo umquam tyran-

the tribune Terentillus, "Livy shows that the Plebes through fear of religion chose rather to obey the consul than trust to the tribunes, saying in favour of the ancient religion these words: Nondum haec quae nunc tenet saeculum negligentia deum venerat, nec interpretando sibi quisque jusjurandum et leges aptas faciebat."

in contionem escendit,] 'escendit,' P., as Gulielmius conjectured. Most of the MSS. have 'ascendit.' Vol. II. De Imp. Cn. Pompeii, c. 18.

Wolf compares the passage 'ad lenonis impurissimi,' which reading he prefers to 'impudicissimi,' with the passage in the oration Pro Sestio, c. 11: "unde haec ubertas verborum fluxit, non sine auctario quodam, quo φορτικώτερα fieret oratio. Sic qui modo erat *leno*, statim mutatur in *cincinnatum ganeonem*, quo nomine Gabinius nusquam appellatur a Cicerone. Sic, quod hic (Pro Sestio, c. 11) dicit *amplissimi ordinis preces* et *clarissimorum civium lacrimas*, iste, re in speciem aucta, effert, *non solum civium lacrimas, verum etiam patriae preces*. Quo loco memorabile est, saepius accidisse huic Scriptori, ut, ubi particulas istas poneret, *non solum, verum etiam*, in altero membro aut minus quiddam adjiceret aut omnino nihil, quum aliquid magnum adjecisse vellet. Conf. supra (c. 2 near the end) et De Domo (c. 3: 'non solum sine ullis copiis,' &c.)."

I have made this extract because it is a specimen of Wolf's way of examining this oration, and what he writes is always worth reading.

eaque dixit] He means of course that Gabinius said what Catilina would not have dared to say, if he had come to life. We have 'ejus vir Catilina;' the same again. See c. 4. Perhaps this is a passage on which a remark is superfluous, as some people find no difficulties. But it is ill said, and might be mistaken. The real expression is in the oration Pro Sestio, c. 12, "habet orationem talem consul, qualem numquam Catilina victor habuisset."

Nonarum Decembr.] The day on which the conspirators were executed at Rome.

L. . . . Lamiam,] See Pro Sestio, c. 12. All this passage about the changing of the dress is heavy and full of repetition, as Markland observes.

gratissimae] Halm mentions no variation here. In some editions it is 'gravissimae.'

fecitque . . . ediceret.] If a reader does not find something here that makes him

nus, ut quo minus occulte vestrum malum gemeretis nihil diceret, ne aperte incommoda patriae lugeretis ediceret. VI. Quum vero in Circo Flaminio, non a tribuno pl. consul in contionem, sed a latrone archipirata productus esset, primum processit, qua auctoritate vir! vini, somni, stupri plenus, madenti coma, composito capillo, gravibus oculis, fluentibus buccis, pressa voce et temulenta; quod in cives indemnatos esset animadversum, id sibi dixit gravis auctor vehementissime displicere. Ubi nobis haec auctoritas tamdiu tanta latuit? cur in lustris et helluationibus hujus calamistrati saltatoris tam eximia virtus tamdiu cessavit? Nam ille alter Caesoninus Calventius ab adolescentia versatus est in foro, quum eum praeter simulatam versutamque tristitiam nulla res commendaret, non vis consilii, non dicendi facultas, non scientia rei militaris, non cognoscendorum hominum studium, non liberalitas. Quem praeteriens quum incultum, horridum maestumque vidisses, etiamsi agrestem et inhumanum existimares, tamen libidinosum et perditum non putares. Cum hoc homine an cum stipite in foro constitisses, nihil crederes interesse: sine sensu, sine sapore, elinguem, tardum, inhumanum negotium, Cappadocem modo abreptum de grege venalium diceres. Idem domi quam libidinosus! quam impurus! quam intemperans, non janua receptis, sed pseudothyro intromissis voluptatibus! Quum vero etiam litteris

pause and consider what the writer means and how he has said it, this may be a hint to him that he is not reading with much care, or that his critical faculty is not yet very active. The note of Markland is this, and it is good: "Digna hoc Scriptore sententia, cujus partem sumpsit e Sextiana, c. 14, partem ex Pison. c. 8. De suo injecit antitheta, *occulte* et *aperte*, cum ludibunda gravitate sonorum, *nihil diceret* et *ediceret*."

Wolf remarks that none of the editors seem to have seized the meaning of this, or rather of the words 'nihil diceret,' which, as he correctly says, in this writer (apud hunc scriptorem) mean 'non prohiberet.' There seems no difficulty in seeing what the Scriptor means; but it happens that sometimes commentators do find a difficulty where other persons may see plain. So it is. We are all liable to mistakes and fits of dulness; always excepted those select few who understand every thing; or perhaps nothing.

6. *Circo Flaminio,*] This Circus was built in the Prata Flaminia or Campus Flaminius, in the level that reached from the Capitol to the Tiber (B.C. 221) by C. Flaminius, who fell at the Thrasymenus lacus (Liv. Epit. c. 20).

calamistrati saltatoris] See Pro Murena, c. 6. Caesoninus is the other consul L. Calpurnius Caesoninus. Calventius was a Gaul who settled at Placentia, and afterwards came to Rome, where he married his daughter to Piso the father of this Piso. This explains the words 'Transalpini sanguinis' in c. 7.

versutamque] The reading of P. and G. corr. The reading of G. pr. m. is 'irritam,' and of S. also.—'non vis consilii,' &c.: I have followed Halm here; there is great variety in the readings.

cum stipite] The editions have generally 'Aethiope' after 'stipite.' If the word should stand, perhaps we ought to read 'cum stipite vel Ethiope,' the reading of S. There is 'stipes' in the In Pison. c. 9.—'Cappadocem:' see Pro Flacco, c. 25.

pseudothyro] "Secret lovers were not allowed to enter by the usual door, but there were for them false (not in our sense, but concealed, secret) doors, that they might slip in unobserved. Another more obscene

studere incipit et bellua immanis cum Graeculis philosophari, tum est Epicureus, non penitus illi disciplinae quaecumque est deditus, sed captus uno verbo voluptatis. Habet autem magistros non ex istis ineptis, qui dies totos de officio ac de virtute disserunt, qui ad laborem, ad industriam, ad pericula pro patria subeunda adhortantur, sed eos qui disputent horam nullam vacuam voluptate esse debere, in omni parte corporis semper oportere aliquod gaudium delectationemque versari. His utitur quasi praefectis libidinum suarum; hi voluptates omnes vestigant atque odorantur; hi sunt conditores instructoresque convivii: iidem expendunt atque aestimant voluptates, sententiamque dicunt et judicant quantum cuique libidini tribuendum esse videatur. Horum ille artibus eruditus ita contempsit hanc pudentissimam civitatem, ut omnes suas libidines, omnia flagitia latere posse arbitraretur, si modo vultum importunum in forum detulisset. VII. Is me, quamquam me quidem non—cognoram enim propter Pisonum affinitatem quam longe hunc ab hoc genere cognatio materna Transalpini sanguinis abstulisset—sed vos populumque Romanum non consilio, neque eloquentia, quod in multis saepe accidit, sed rugis supercilioque decepit. L. Piso,

sense is certainly not concealed under these words" (Klotz). I think there is.

bellua] There is a reading 'helluo.' He does not here declare himself altogether against the Epicureans, but he means to say that Piso laid hold of the word 'pleasure' and interpreted it his own way. The 'ex istis ineptis' were the triflers, as Piso supposed them to be, the grave philosophers of the Stoa, who preached doctrines too severe for him. All this passage seems to be taken from the P. Sestio, c. 10. At least it is worth while to compare the two passages; and particularly "eos autem qui dicerent dignitati esse serviendum, rei publicae consulendum," &c.

pudentissimam] "E.; *prudentissimam*, P. G. S. et codd. plerique" (Halm). But the opposition between 'pudor' contained in 'pudentissimam,' and 'libido' shows what the true reading is. Wolf has a note here: "Hoc audiens Senatus haud magis risum tenuisset, opinor, quam intelligens quisque nunc Londini teneret aut Parisiis si quis in publica oratione has urbes *pudentissimas* diceret."

7. *propter Pisonum*] Cicero's daughter Tullia was married to C. Calpurnius Piso, which affinity had given Cicero the opportunity of knowing more about the consul Piso. The sentence is very confused, and the expression 'ab hoc genere . . . abstulisset' is vague.

L. Piso . . . pestis meae?] One purpose for which we read the best Greek and Roman writers is to improve our judgment and our taste. Markland says of this passage: "Satis est talia legisse hominem libero judicio et animo Ciceronianis litteris innutrito, ut intelligat hanc eloquentiam pueriliter ludentis ingenii esse, non Ciceronis." Markland refers to the passages in Cicero in which he makes reflections on Piso's person (Pro Sestio, c. 8; In Pisonem, c. 6, 9). Gesner, who wrote in defence of the genuineness of this and the other speeches in reply to Markland, thinks that all this is in Cicero's style, and wonders that Markland should have found fault with it, when he produces from the undoubted orations of Cicero other examples of the same abuse of Piso. But Wolf has his answer for Gesner. Antitheses are common in good orators, but such antitheses as these! Unluckily Piso was now in Macedonia, and the point, if there is any, would lose its effect for want of an object. A reader of good sense would conclude from the words that Piso was in the Senate; and his conclusion would be just. That is enough to condemn the passage. So in the oration to the Pontifices he often addresses Clodius, who, if he was present, must have come purposely to hear himself abused.

tune ausus es isto oculo, non dicam isto animo, ista fronte, non vita, tanto supercilio, non enim possum dicere tantis rebus gestis, cum A. Gabinio consociare consilia pestis meae? Non te illius unguentorum odor, non vini anhelitus, non frons calamistri notata vestigiis, in eam cogitationem adducebat, ut, quum illius re similis fuisses, frontis tibi integumento ad occultanda tanta flagitia diutius uti non liceret? Cum hoc tu coire ausus es ut consularem dignitatem, ut rei publicae statum, ut senatus auctoritatem, ut civis optime meriti fortunas provinciarum foedere addiceres? Te consule, tuis edictis et imperiis senatui populi Romani non est licitum, non modo sententiis atque auctoritate sua, sed ne luctu quidem ac vestitu rei publicae subvenire. Capuaene te putabas, in qua urbe domicilium quondam superbiae fuit, consulem esse, sicut eras eo tempore, an Romae, in qua civitate omnes ante vos consules senatui paruerunt? Tu es ausus in Circo Flaminio productus cum tuo illo pari dicere, te semper misericordem fuisse? quo verbo senatum atque omnes bonos tum quum a patria pestem depellerent crudeles demonstrabas fuisse. Tu misericors me affinem tuum, quem comitiis tuis praerogativae primum custodem praefeceras, quem

"The form of the sentence," says Wolf, "deceived Gesner, the form being Ciceronian enough, and we only want good sense in it expressed in words suitable to the occasion." This is the defect.

calamistri] I do not know if this needs to be explained. Hotmann has explained it. The friseur had accidentally burned the worthy consul's forehead when he was curling his hair. It must have been a bad burn and a clumsy friseur to make a mark that lasted so long; or perhaps more marks than one. See in Pison. c. 6: "qui istius insignem nequitiam frontis involutam integumentis nondum cernat."

addiceres?] This is a technical word signifying to assign to Clodius as a purchaser the property of Cicero, by virtue of the agreement about the provinces.—'tuis edictis:' that is common, but 'tuis imperiis' is not; yet it is Latin. But whether it could be said of a consul as it is said here, in conjunction with 'edictis,' I do not know. The plural 'imperia' is said of the powers which the state gave; and is properly used at the end of this chapter, 'provinciae, legiones, imperia donabantur.'

Capuaene] Capua was once the 'domicilium superbiae' as he calls it. A passage in the oration De Lege Agraria, i. c. 6, will explain this (Vol. II); and show the origin of the expression.

The words 'sicut eras eo tempore' mean that he was a consul at Capua. Piso was a Duumvir at Capua in the same year in which he was consul at Rome (Pro Sestio, c. 8). Markland thinks that this passage proves the ignorance of the writer of this speech, who affirms that Piso was a consul at Capua. Gesner, a good-natured man, but deficient in judgment, as Wolf thinks, says of Markland, "vir alias perspicax non vidit amaram hic irrisionem esse." It requires a sharp eye to see the 'amara irrisio;' and an Englishman would find that out as quick as a German. So says Wolf: "Sin vero de gustu ironiae quaeritur, ne Marklandus quidem, opinor, sine sapore erat, aut nesciebat, utpote Britannus, quid bona irrisio esset: quod autem ille dicit, ex animi dicit sententia." Garatoni proposes to leave out the words, and so settle the dispute; which is certainly ingenious, but not just. Cicero himself (In Pison. c. 11) calls him 'Campanus consul,' but it is a very different thing there from what is said here. Even in the De Domo, c. 23, it is quite different.

comitiis tuis] Cicero says In Pison. c. 5: "Cui primam comitiis tuis dederas tabulam praerogativae, quem in Senatu sententiam rogabas tertium."

Kalendis Jan. tertio loco sententiam rogaras, constrictum inimicis rei publicae tradidisti; tu meum generum, propinquum tuum, tu affinem tuam, filiam meam, superbissimis et crudelissimis verbis a genibus tuis reppulisti; idemque tu, clementia ac misericordia singulari, quum ego una cum re publica non tribunicio, sed consulari ictu concidissem, tanto scelere tantaque intemperantia fuisti, ut ne unam quidem horam interesse paterere inter meam pestem et tuam praedam, saltem dum conticesceret illa lamentatio et gemitus urbis. Nondum palam factum erat occidisse rem publicam, quum tibi arbitria funeris solvebantur. Uno eodemque tempore domus mea diripiebatur, ardebat; bona ad vicinum consulem de Palatio, de Tusculano ad item vicinum alterum consulem deferebantur; quum, iisdem operis suffragium ferentibus, eodem gladiatore latore, vacuo non modo a bonis, sed etiam a liberis atque inani foro, ignaro populo Romano quid ageretur, senatu vero oppresso et afflicto, duobus impiis nefariisque consulibus aerarium, provinciae, legiones, imperia donabantur.

VIII. Horum consulum ruinas vos consules vestra virtute fulsistis, summa tribunorum plebis praetorumque fide et diligentia sublevati. Quid ego de praestantissimo viro T. Annio dicam, aut quis de tali cive satis digne umquam loquetur? Qui quum videret

arbitria funeris solvebantur.] The passage in the oration In Pison. c. 9, is this: "eodem in templo, eodem et loci vestigio et temporis arbitria non mei solum sed patriae funeris abstulisti." Wolf considers the passage in the text to be a puerile imitation of the passage in the Piso, and he is willing to take any man as judge in the case, who shall think that he possesses a clear judgment. I leave those who think that they have it to make themselves judges in the matter.

The 'arbitria' are the funeral expenses, or what is paid to the undertakers and persons who are employed about a funeral. Klotz refers to a passage of Ulpian (Dig. 11. 7. 12. § 5, the Title de religiosis et sumptibus funerum, &c.) where it is said: "Sumptus funeris arbitrantur pro facultatibus vel dignitate defuncti;" which helps to explain 'arbitria.' But there is another passage about the expense of funerals which is more to the purpose (14. § 7): "Sed interdum is qui sumptum in funus fecit, sumptum non recipit, veluti si pietatis gratia fecit, non hoc animo quasi recepturus sumptum quem fecit; et ita Imperator noster rescripsit. Igitur aestimandum erit ab arbitro et perpendendum quo animo sumptus factus sit." These passages show that the 'arbitria funeris' were so called, because they were estimated by proper persons and fixed according to the rank and wealth of the deceased. The 'arbiter' might also have to decide whether the person who had paid the funeral expenses was entitled to have them repaid. (See Hor. Sat. ii. 3. v. 86.)

ad vicinum consulem] This was Piso, who received in the house of his mother-in-law the plunder taken from Cicero's house on the Palatine. His other good neighbour at Tusculum, Gabinius, received the plunder of Cicero's Tusculan villa (De Domo, c. 24). At his villa at Tusculum Cicero had built a gymnasium (Ad Att. i. 1, 4), and he had adorned the place with statues at great cost. His Tusculanum and Pompeianum were his favourite villas (Ad Att. ii. 1).

8. *Horum consulum ruinas*] He means the ruinous condition to which Piso and Gabinius brought the State; which was an unsafe house (aedes ruinosae) and required propping or shoring up, which seems to have been done at Rome as it is in London. But before the new consuls set about propping up the old house, they were themselves raised (sublevati) by the tribuni and praetores. (Vol. II. De Leg. Agr. ii. c. 35.)

sceleratum civem aut domesticum potius hostem, si legibus uti liceret, judicio esse frangendum; sin ipsa judicia vis impediret ac tolleret, audaciam virtute, furorem fortitudine, temeritatem consilio, manum copiis, vim vi esse superandam, primo de vi postulavit. Posteaquam ab eodem judicia sublata esse vidit, ne ille omnia vi posset efficere curavit: qui docuit neque tecta neque templa neque forum neque curiam sine summa virtute ac maximis opibus et copiis ab intestino latrocinio posse defendi; qui primus post meum discessum metum bonis, spem audacibus, timorem huic ordini, servitutem depulit civitati. Quam rationem pari virtute, animo, fide P. Sestius secutus, pro mea salute, pro vestra auctoritate, pro statu civitatis nullas sibi inimicitias, nullam vim, nullos impetus, nullum vitae discrimen vitandum umquam putavit: qui caussam senatus exagitatam contionibus improborum sic sua diligentia multitudini commendavit, ut nihil tam populare quam vestrum nomen, nihil tam omnibus carum aliquando quam vestra auctoritas videretur; qui me quum omnibus rebus quibus tribunus plebis potuit defendit, tum reliquis officiis juxta ac si meus frater esset sustentavit: cujus ego clientibus, libertis, familia, copiis, litteris ita sum sustentatus, ut meae calamitatis non adjutor solum verum etiam socius videretur. Jam ceterorum officia studia vidistis: quam cupidus mei C. Cestilius, quam studiosus vestri, quam non varius fuerit in

de vi postulavit.] He attempted to bring Clodius to trial under the Leges de Vi; but he found that he could not do it. Clodius had upset the law, and there could be no trials (ab eodem judicia sublata esse). There is something about Milo's efforts in the oration Pro Milone, c. 13. Milo opposed the violence of Clodius by violence, and the quarrel continued till Clodius lost his life in a broil with Milo.

depulit civitati.] Compare with this what he says of Milo in the oration Pro Sestio, c. 40. Wolf denies that 'depulit' with a dative is a usage of Cicero, for in the other instances which are cited in the Lexicons (Ad Fam. v. 20; Tuscul. Disp. iii. 32) the dative depends on something else.

P. Sestius] The tribune, as he calls him afterwards. He and Milo had served Cicero well. Wolf observes that Cicero talks of T. Annius and the rest as if they were not present and before his eyes: "Scilicet absentes alloquitur, de praesentibus facit narrationem. Ac narraret haud dubie de pluribus, si manu habuisset orationes aliquas pro Cestilio, pro Fadio etc. uti hae sunt pro Milone et Sextio. Nunc in his Tribunis pl. laudandis et deinceps in praetoribus Caecilio et Calidio, brevitati studet, quibus (c. 9) subjicit Septimium, Valerium, Crassum, ceteros, velut ignobile vulgus. Eademque causa, puto, conviciis non tangit improbos Tribunos, Numerium Quintium et Atilium Serranum, quos cum Appio Claudio Praetore plane praeteriit" (Wolf). Klotz answers Wolf's objections without naming him. After observing that some persons have expressed surprise at Cicero mentioning Milo and Sestius so particularly, and having shown that there was good reason for this, he adds that it is still more silly to ask why the orator has not attacked Numerius Quintius and Atilius Serranus, and Appius Claudius Pulcher. "For we might give Cicero credit for tact enough not to attack in this way magistrates of the Roman people, who were still in office, and on the occasion of making a speech of thanks, as he himself says" (c. 9).

juxta ac si] Wolf says that it is not Cicero's usage to join these words in this way.—'ac studia,' Halm; but 'ac' is not in the MSS.

C. Cestilius,] One of the tribuni who

caussa. Quid M. Cispius, cui ego ipsi parenti fratrique ejus sentio quantum debeam; qui, quum a me voluntas eorum in privato judicio esset offensa, publici mei beneficii memoria privatam offensionem oblitteraverunt. Jam T. Fadius, qui mihi quaestor fuit, M'. Curtius, cujus ego patri quaestor fui, studio, amore, animo huic necessitudini non defuerunt. Multa de me C. Messius et amicitiae et rei publicae caussa dixit: legem separatim initio de salute mea promulgavit. Q. Fabricius, si quae de me agere conatus est, ea contra vim et ferrum perficere potuisset, mense Januario nostrum statum recuperassemus; quem ad salutem meam voluntas impulit, vis retardavit, auctoritas vestra revocavit. IX. Jam vero praetores quo animo in me fuerint vos existimare potuistis, quum L. Caecilius privatim me suis omnibus copiis studuerit sustentare,

had done what he could for Cicero.—'quam non varius:' he means, I suppose, that he was steady in Cicero's cause.

M. Cispius,] Cicero afterwards defended him (Pro Cn. Plancio, c. 31). Fadius is mentioned in one of his letters (Ad Fam. v. 18); but when was he Cicero's quaestor? Manutius says 'in consulatu;' and it may be so (Pro Sestio, c. 3), for a consul had a quaestor. But he seems to speak of a quaestor whom a governor has in a province; and what follows appears to show that he uses it so. But Cicero had not yet taken a province.

M'. Curtius,] The name is Curius in some MSS. M'. Curtius, a quaestor, is mentioned in the oration Pro Flacco, c. 13; and in the letters to Quintus (i. 4), Cicero mentions Curtius with Sestius, Milo, Fadius, and Fabricius. We cannot discover who this Curius or Curtius was, to whose father Cicero or the Declamator was quaestor. Cicero was quaestor to Sext. Peducaeus in Sicily. To ease the difficulty Hotmann and Pighius suppose that the man was adopted by Sext. Peducaeus. But Markland doubts if Cicero ever calls an adoptive father by the name 'pater.' The explanation is that the statement is false.

Messius] A tribune who is mentioned in a letter to Atticus (iv. 1): "Legem consules conscripserunt, qua Pompeio per quinquennium omnis potestas rei frumentariae toto orbe terrarum daretur: alteram Messius, qui omnis pecuniae dat potestatem et adjungit classem et exercitum et majus imperium in provinciis quam sit eorum qui eas obtineant. Illa nostra lex consularis nunc modesta videtur, haec Messii non ferenda." Cicero never speaks of Messius having proposed a Lex 'de salute mea.'

There is a reading 'speciatim' in place of 'separatim;' but 'speciatim' is a barbarous word, says Wolf, which the most learned editors since Victorius have turned from with horror. But there are German editors since Wolf's time, who have printed 'speciatim' in the text. Klotz among others has done it; perhaps to avoid the difficulty about 'separatim,' which is explained 'apart from his colleagues.' Then we have, for the sake of antithesis, in the next chapter, that L. Caecilius "publice promulgarit de salute mea cum collegis paene omnibus." Wolf, who was an acute critic and enjoyed a little fun, which is perhaps allowable sometimes, has preserved from oblivion an Edictum of Scheller about 'speciatim.' It occurs in his Observatt. in priscos scrippt. quosdam, p. 104: "Si h. l. recipitur, est Ciceronianum: sin minus, non est Ciceronianum. Plura vocabula semel tantum occurrunt; quae nisi in libros priscorum (*veterum* s. *antiquorum* volebat scribere) recepta fuissent, non possent in iis hodie occurrere." Wolf's comment is Euge! It is certainly a choice morsel.

Q. Fabricius,] See Pro Milone, c. 14.

9. *L. Caecilius*] He is mentioned in the oration Pro Milone, c. 14. M. Calidius is commemorated by Cicero as an orator (Brutus, c. 79). The terms in which he describes his art show the wonderful art of Cicero. In speaking of Calidius' use of metaphorical language, in which the Romans delighted much more than the Greek orators, he says: "ac non propria verba rerum, sed pleraque translata (metaphorically used), sic tamen, ut ea non irruisse in alienum locum, sed immigrasse in suum diceres." We may say of much of our English metaphor, 'in alienum locum irruit.' The French writers, who have adopted the

publice promulgarit de mea salute cum collegis paene omnibus, direptoribus autem bonorum meorum in jus adeundi potestatem non fecerit. M. autem Calidius statim designatus sententia sua quam esset cara sibi mea salus declaravit. Omnia officia C. Septimii, Q. Valerii, P. Crassi, Sex. Quintilii, C. Cornuti summa et in me et in rem publicam constiterunt.

Quae quum libenter commemoro, tum non invitus nonnullorum in me nefarie commissa praetereo. Non est mei temporis injurias meminisse, quas ego etiamsi ulcisci possem, tamen oblivisci mallem. Alio transferenda mea tota vita est, ut bene de me meritis referam gratiam, amicitias igni perspectas tuear, cum apertis hostibus

use of metaphor largely, use it better than we do; at least the best French writers do.

The words 'in jus adeundi' mean that the praetor Caecilius would not allow the plunderers of Cicero's property to enter his court; he refused to allow them the same actions as he allowed to other people. It was the function of the praetor 'judicium dare.' Hotmann conjectures that there was some dispute about Cicero's property; but the writer does not say so, nor is there any reason for the conjecture, except the difficulty which suggested this to Hotmann, that the praetor could not have refused them justice, if they applied to him about other matters. The plunderers of course could not have brought their own misdeeds before the praetor, or have asked him to give them power to take possession of Cicero's property (Wolf). They had taken possession as we are told, and that was enough for them. It must have been about other matters then that the praetor refused them access to his court; and Hotmann properly asks "de aliis rebus quo jure denegasset?" Nobody can tell. The praetor's edict contains a list of persons who were not allowed to postulate in his court (Dig. 3. tit. 1, De Postulando). "Nam quosdam (Praetor)," says Ulpian, "in totum prohibuit postulare, quibusdam pro se permisit, quibusdam et pro certis duntaxat personis et pro se permisit." All the incapacities which are enumerated in the edict are general, and belong to classes of persons well defined. Even the Infames could postulate for themselves and for certain other persons nearly related to them, but not for all persons. How then could the praetor refuse justice to the plunderers of Cicero's property? Both the fact and the expression show that this passage is not from Cicero's hand. 'In jus' is the praetor's court. The expression 'in jus adeundi potestatem' is unusual; but there is (Verr. ii. 2. c. 23) "antequam in jus aditum esset." The usual expression is 'in jus ire,' or 'praetorem adire,' or 'ad praetorem' (Pro Flacco, c. 21).

Omnia officia] "All these praetors had been on Cicero's side, but they had severally done less for him, and accordingly he thanks them only in general" (Klotz). Just so.

mei temporis] So Cicero uses 'mei ingenii' in the genitive, which may be compared with this as to the form. He means here, I suppose, it is not suitable to my present circumstances to remember my wrongs; and yet he has said enough about them.

'Si ulcisci possem . . . mallem.' He says, "If I could have avenged them, I would have preferred to forget them." He would have spoken more to the purpose if he had said, "If I could revenge my wrongs, I would not." Wolf has the following remark on these words: "Animus in his melior apparet quam Latina oratio. Ista enim imperfectorum consequutio hoc significat, injurias fortasse eum oblivisci non malle, si ulciscendi facultatem haberet: unde efficitur ridiculum illud, quod vulgo per jocum dicunt: 'Primum quidem non possum, tum et voluntas cessat.' At nonne ita saepe scribit optimus quisque: 'Etiamsi possem, non facerem?' Quidni scribant, ubicumque vis sententiae et ratio fert? hic autem, ubi non invitus ad lenitatem rediit, sententiam ista ratione ineptam fieri, facile quisque sentit. Multo aliter Cicero Catil. ii. 8: 'Quos ego, si ullo modo fieri possit, non tam ulcisci studeo, quam sanare et ipsos placare rei publicae.'"

igni] 'igni' P., 'digne' E. and Pal. ix., 'dignas' F.—'proditores . . . consoler:' I have followed Halm in this reading.

bellum geram, timidis amicis ignoscam, proditores non indicem, dolorem profectionis meae reditus dignitate consoler. Quod si mihi nullum aliud esset officium in omni vita reliquum, nisi ut erga duces ipsos et principes atque auctores salutis meae satis gratus judicarer, tamen exiguum reliquae vitae tempus non modo ad referendam verum etiam ad commemorandam gratiam mihi relictum putarem. Quando enim ego huic homini ac liberis ejus, quando omnes mei gratiam referent? Quae memoria, quae vis ingenii, quae magnitudo observantiae tot tantisque beneficiis respondere poterit? qui mihi primus afflicto et jacenti consularem fidem dexteramque porrexit; qui me a morte ad vitam, a desperatione ad spem, ab exitio ad salutem vocavit; qui tanto amore in me, studio in rem publicam fuit, ut excogitaret quemadmodum calamitatem meam non modo levaret sed etiam honestaret. Quid enim magnificentius, quid praeclarius mihi accidere potuit, quam quod illo petente vos decrevistis, ut cuncti ex omni Italia, qui rem publicam salvam vellent, ad me unum, hominem fractum et prope dissipatum, restituendum et defendendum venirent? ut qua voce ter omnino post Romam conditam consul usus esset pro universa re

huic homini] He means Lentulus. Wolf observes that though 'homo' is not simply used to express contempt, they do not say 'hominem' without some addition, but rather 'virum.' But 'homo' alone, not 'hic homo,' is sometimes used emphatically for 'the man,' either in the sense of disparagement or of praise, according to the context (see Vol. I. Pro Quintio, c. 4). Yet 'hic homo,' as Wolf says, in familiar talk, is the man who is speaking, ὅδε ἀνήρ.

"Hunc hominem si velles tradere."
(Horace, Sat. i. 9. 47.)

In the oration Quum Populo, c. 7, 'Huic ego homini' is different. Afterwards, for variety's sake, I suppose, he says 'illo petente.' E. F. have 'illo referente,' which, as Graevius says, is the better reading, but the writer has 'petente' in the oration De Domo, c. 33. The expression 'prope dissipatum' is unusual in this sense.

ter omnino] Compare In Pison. c. 15; and Pro Sestio, c. 60: "In una mea causa post Romam conditam factum est ut litteris consularibus ex S. C. cuncta ex Italia omnes qui rem publicam salvam esse vellent convocarentur." Here Cicero says "in una mea causa." The Declamator triples the thing. Cicero says "cuncta ex Italia omnes:" the Declamator has 'cuncti ex omni Italia.'

S. has 'qua voce te Romule,' and so the old editions, or some of them. Lambinus corrected this into 'semel omnino;' but he tells us that the learned Brissonius informed him that he thought it ought to be 'qua voce ter omnino;' and Lambinus saw that the corrupt reading 'qua voce te Romanino' should be so interpreted. The evidence for the true reading 'ter omnino' was discovered by Gruter in the Erf. in Pal. ix. and another codex.

Those who maintain the historical accuracy of the text refer to the oration Pro C. Rabirio, c. 7, where the consuls Flaccus and Marius called on the people to save the state; to the consulship of C. Calpurnius Piso, B.C. 67 (Oratio Pro C. Cornelio, and the note of Asconius). This makes only twice, as Wolf remarks, and the last instance cannot be cited, for Piso said "qui rem publicam salvam esse vellent, ut ad legem accipiendam adessent," his Lex against Ambitus. In the other cases, such as the riot in which Ti. Gracchus perished, the words were not uttered by a consul, but by the Pontifex Maximus Scipio Nasica. Only one instance then can be cited. It is very probable that there were many instances, but why should he say 'ter omnino.' But the want of historical accuracy is often chargeable on Cicero himself; and this

publica apud eos solum, qui ejus vocem exaudire possent, eadem voce senatus omnes ex omnibus agris atque oppidis cives totamque Italiam ad unius salutem defendendam excitaret? X. Quid ego gloriosius meis posteris potui relinquere quam hoc senatum judicasse, qui civis me non defendisset, eum rem publicam salvam noluisse? Itaque tantum vestra auctoritas, tantum eximia consulis dignitas valuit, ut dedecus et flagitium se committere putaret, si qui non veniret. Idemque consul, quum illa incredibilis multitudo Romam et paene Italia ipsa venisset, vos frequentissimos in Capitolium convocavit. Quo tempore quantam vim naturae bonitas haberet et vera nobilitas intelligere potuistis. Nam Q. Metellus, et inimicus et frater inimici, perspecta vestra voluntate omnia privata odia deposuit: quem P. Servilius, vir quum clarissimus tum vero optimus mihique amicissimus, et auctoritatis et orationis suae divina quadam gravitate ad sui generis communisque sanguinis facta virtutesque revocavit, ut haberet in consilio et fratrem ab inferis, socium rerum mearum, et omnes Metellos praestantissimos cives paene ex Acheronte excitatos, in quibus Numidicum illum, cujus quondam de patria discessus molestus omnibus, ipsi ne luctuosus quidem visus est. Itaque exstitit non modo salutis defensor, qui ante hoc unum beneficium fuerat inimicus, verum etiam ascriptor dignitatis

passage therefore can hardly be urged as evidence against the genuineness of this speech.

10. *Q Metellus,*] Nepos, who was consul with Lentulus (Pro Sestio, c. 33). Nepos is called the brother of Clodius; but he was his 'consobrinus.' P. Servilius is Isauricus, who brought about the reconciliation between Cicero and Metellus Nepos (Pro Sestio, c. 62; In Pison. c. 15). Servilius was the son of a daughter of Q. Metellus Macedonicus, and therefore related to the Metelli (communis sanguinis).

fratrem ab inferis,] Celer, who was dead. He was praetor in Cicero's consulship (socium rerum mearum). This passage must be compared with the passage in the oration Pro Sestio, c. 62, of which this is a caricature. But what are we to say to 'ex Acheronte excitatos,' and 'paene ex Acheronte excitatos?' Were they to be roused up from the banks of Acheron, or to be almost roused up, or what does he mean? And what shall we say to the way in which Metellus Numidicus is introduced, and the flatness and insipidity of the words 'cujus quondam . . . visus est?' If a man wished to say something that was not to the purpose, he could not do it better. The expression in the speech Pro Sestio, c. 62, is in a different style: "quumque eum (Servilius) ad domestici exempli memoriam et ad Numidici illius casum vel gloriosum vel gravem convertisset."

exstitit] E. Pal. ix. Crat. margo. The other reading is 'dimittit' or 'dimittitur,' in which there is no sense.—'is qui sua lege:' Clodius. See c. 2.

ascriptor] He says (c. 4) "quum in restituendo auctorem fuisse ascriptoremque videatis." "When a S. C. was drawn up, the names of those who were in favour of it were added; and these senators used to be present when it was drawn up" (Hotmann). Whether the names of all 'quorum de sententia factum fuerat' were 'adscripta,' I do not know. It was usual for certain senators 'adesse honoris causa,' and to add their names. Klotz refers to the De Lege Agraria, ii. 9, where the expression 'adscriptores legis agrariae' occurs; and he affirms that such an 'adscriptor' wrote his name under a Lex when it was promulgated. This may be so; but if there is no further evidence than what he gives, he has not proved it. However, the Declamator means that as the 'ascriptor' of his 'dignitas' he was in favour of Cicero's recall and of

meae. Quo quidem die, quum CCCCXVII senatores essetis, magistratus autem omnes adessent, dissensit unus, is qui sua lege conjuratos etiam ab inferis excitandos putarat. Atque illo die, quum rem publicam meis consiliis conservatam gravissimis verbis et plurimis judicassetis, idem consul curavit ut eadem a principibus civitatis in contione postero die dicerentur, quum quidem ipse egit ornatissime meam caussam, perfecitque astante atque audiente Italia tota, ut nemo cujusquam conducti aut perditi vocem acerbam atque inimicam bonis posset audire. XI. Ad haec non modo adjumenta salutis, sed etiam ornamenta dignitatis meae reliqua vos iidem addidistis: decrevistis ne quis ulla ratione rem impediret; qui id impedisset, graviter vos molesteque laturos; illum contra rem publicam salutemque bonorum concordiamque civium facturum, et

the Lex that was passed at the Centuriata Comitia (Ad Att. iv. 1).

Quo quidem die, quum] "Non desinit garrire de priore tempore, et magna cum cura (audi, quaeso, *quo tempore—quo quidem die—atque illo die—postero die—denique illo die—quo die*) de his quae acta in Senatu essent ante reditum. Quae tota narratio mihi similiter composita videtur, ut si quis ab Orco redux superstitibus nobis denarret, quos interea de eo sermones habuerimus. Unum verbum oblitus est Orcinus noster excusandi sui causa adjicere v. c. ex Pison. c. 15: *Quid me attinet dicere quae ex vobis audivi?* vel e Sext. c. 33: *Vos haec melius scire potestis: equidem audita dico.*" Wolf. In the oration In Pisonem, the passage is not read as Wolf quotes it.

Atque illo die,] Wolf had 'Atque illo die quo,' and he found fault with it for good reason, as not agreeing well with the rest of the sentence. Garatoni wrote 'cum,' which is the reading of E.—'idem consul:' we know it was Lentulus (In Pison. c. 15; Pro Sestio, c. 50); but it might be Metellus, so far as this passage shows.

This sentence is a miserable piece of stuff. What does he mean by 'consul curavit ut eadem a principibus,' &c.? The 'is qui sua lege' is Clodius. See c. 2. But there he says that Clodius promulgated a Lex in these terms (who can believe it?), that if the conspirators came to life again, then I might return. Here it is "he who by his Lex had *thought* that the conspirators should be called up even from the parts below." What the writer thought or what he meant, nobody can tell. He could not have said himself. But the two things are different; and the second is pure nonsense.

11. *decrevistis*] Compare the passage in the oration Pro Sestio, c. 61: "Si quis aliter fecisset eum plane rei publicae eversorem fore idque senatum gravissime laturum, et ut statim de ejus facto referretur: qua gravitate sua, quum frequens senatus nonnullorum scelus audaciamque tardasset, tamen illud addidit ut, si diebus quinque quibus agi potuisset non esset actum, redirem in patriam dignitate omni reciperata:" which seems to be the original. But what a difference between the style of the two passages, one of which is in Cicero's best style, the other a flat, insipid copy. "Meque etiam, si diutius calumniarentur, redire jussistis." This is in the poorest style, the work of a feeble hand. Wolf says very justly of this passage compared with the passage in the oration Pro Sestio: "Quo ex loco putidus magister excerpsit et discerpsit pleraque, singulari temperamento, ut, ubi Cicero loquitur vehementius, ipse lenius agat; alibi rursum vehementius, ubi lenius ille; quasi modeste de via decedere voluerit majori. Ita ornatius extulit legitimum illud *contra rem publicam*, sicut ubique Cicero et alii scribunt; nec statim displicet additum *salutemque bonorum*; at male friget *concordiamque civium*. Item jejunum est in extremo, *meque etiam redire jussistis;* ubi dicere voluit, ut *redirem decrevistis* vel simili modo."

I have written out the passage of the oration Pro Sestio, and Wolf's remark, that the reader may have it all before his eyes. This great critic, the first of all scholars, whose real learning was adorned by wit, humour, and taste, will teach those who have yet to learn, that it is something more than mere words that makes good writing.

ut ad vos de eo statim referretur; meque etiam, si diutius calumniarentur, redire jussistis. Quid, ut iis agerentur gratiae, qui e municipiis venissent? quid, ut ad illam diem, res quum redissent, rogarentur ut pari studio convenirent? Quid denique illo die, quem P. Lentulus mihi fratrique meo, liberisque nostris natalem constituit, non modo ad nostram, verum etiam ad sempiterni memoriam temporis, quo die nos comitiis centuriatis, quae maxime majores comitia justa dici haberique voluerunt, arcessivit in patriam, ut eaedem centuriae quae me consulem fecerant consulatum meum comprobarent—quo die quis civis fuit qui fas esse putaret, quacumque aut aetate aut valetudine esset, non se de salute mea sententiam ferre? Quando tantam frequentiam in campo, tantum splendorem Italiae totius ordinumque omnium, quando illa dignitate rogatores, diribitores, custodesque vidistis? Itaque P. Lentuli beneficio excellenti atque divino non reducti sumus in patriam, [sic] ut nonnulli clarissimi cives, sed equis insignibus et curru aurato reportati.

Possum ego satis in Cn. Pompeium umquam gratus videri, qui non solum apud vos, qui omnes idem sentiebatis, sed etiam apud

res quum redissent,] 'When the courts were open and public business was again transacted;' as in the oration Pro Sestio, c. 62: "atque ut iidem ad res redeuntes ut venirent rogarentur." Lambinus cites a passage from the Captivi of Plautus, i. 1, 17:

> "Prolatis rebus parasiti venatici
> Sumus; quando res redierunt, molossici
> Odioficique et multum incommodistici."

'Res prolatae' means that the business of the courts is adjourned; and the 'res rediisse' that the business is resumed. Wolf quotes the passage thus, and Klotz. But Lindemann writes 'quando rure redierunt,' following the old editions. The words 'illam diem' explain 'quum res redissent.' E. has 'venissent' in place of 'redissent.'

Quid denique illo die,] This sentence is very confused in the common editions, where a full stop is placed after 'comprobarent.' But Halm has made it clearer by his punctuation, which I have followed. The sentence begins 'Quid denique illo die,' and is interrupted by the clauses 'quem P. Lentulus,' &c., and 'quo die nos,' &c., and the sentence is resumed by the words 'quo die quis civis fuit,' &c.

rogatores,] Those who addressed the people on Cicero's behalf. 'Diribitores,' as some say, the distributors of the voting tablets. 'Custodes,' those who looked after the voting tablets. He says in the oration In Pisonem, c. 15: "hoc certe video, quod indicant tabulae publicae, vos rogatores, vos diribitores, vos custodes fuisse tabularum." Wunder has a long discussion on the verb 'diribere' (Variae Lectiones, &c. ex Codice Erfurtensi, p. 126, &c.). This matter is examined in the notes to the oration Pro Cn. Plancio, c. 6, more fitly than here.

equis . . . curru] Markland found this very flat. He says "consularis *curru aurato invehens* haud absimilis *equitanti in arundine longa.*" Gesner says that Cicero compares his return to a triumph, and he shows that the words which he uses are the expressions used in a description of a triumph. All would be right, rejoins Wolf, if Cicero were speaking of a real triumph, but so far from this being the case, adds Wolf, Cicero never compares his return to a triumph, neither in the letter to his friend Lentulus, nor in the speech against Piso where he describes his restoration with magniloquence enough. Klotz at the end of a note on this passage says, "Who could find any thing to offend him in such a passage?" The answer is that every body will except himself, and those like him.

universum populum salutem populi Romani et conservatam per me et conjunctam esse cum mea dixerit; qui caussam meam prudentibus commendarit, imperitos edocuerit, eodemque tempore improbos auctoritate sua compresserit, bonos excitarit; qui populum Romanum pro me tamquam pro fratre aut pro parente non solum hortatus sit, verum etiam obsecrarit; qui quum ipse propter metum dimicationis et sanguinis domo se teneret, jam a superioribus tribunis petierit ut de salute mea et promulgarent et referrent; qui in colonia nuper constituta, quum ipse gereret magistratum, in qua nemo erat emptus intercessor, vim et crudelitatem privilegii auctoritate honestissimorum hominum et publicis litteris consignarit, princepsque Italiae totius praesidium ad meam salutem implorandum putarit; qui quum ipse mihi semper amicissimus fuisset, etiam ut suos necessarios mihi amicos redderet elaborarit. XII. Quibus

jam a superioribus] "*Jam* P.; *etiam* codd. rell. et edd. (*tenere etiam* S.)," Halm. But 'tenere etiam' may be read 'teneret jam.' The tribunes are those of the year before. Those who have leisure may count how often in these four spurious orations the story is told of Pompeius shutting himself up at home (domo se teneret); rather oftener than the great man would like to hear.

colonia] The 'colonia' was Capua, where Caesar had established a 'colonia' in his consulship (B.C. 59). Cn. Pompeius was Duumvir in Capua with L. Piso, and had got a decree passed in favourable terms to Cicero (In Pisonem, c. 11; Pro Milone, c. 15). At Capua there was no bribed intercessor, no man bought like a Roman Tribune to interpose his 'intercessio.' He alludes to Aelius Ligur tr. pl., who being bought by Clodius interposed his veto when L. Ninnius on the kalends of June proposed the recall of Cicero (Pro Sestio, c. 31).

privilegii] He calls it a Privilegium, the Lex of Clodius by which he was banished. A Privilegium is a Lex made for a particular case. Gellius (x. 20) after giving Ateius Capito's definition of a Lex, "Lex est generale jussum populi aut plebis rogante magistratu," says, "Ea definitio si probe facta est, neque de imperio Cn. Pompeii, neque de reditu M. Ciceronis, neque de caede P. Clodii quaestio, neque alia id genus populi plebisve jussa, *leges* vocari possunt, non sunt enim generalia jussa, neque de universis civibus; sed de singulis concepta; quocirca privilegia potius vocari debent, quia veteres *priva* dixerunt quae nos singula dicimus." It is said in the oration De Domo, c. 17: "vetant leges sacratae, vetant XII tabulae, leges privatis hominibus irrogari; id est enim privilegium." There are also the passages in the De Legibus, iii. c. 4, 19; and in the Pro Sestio, c. 30. The passage in the De Legibus, iii. 19, is clear: "Et nondum natis seditiosis tribunis plebis, ne cogitatis quidem, admirandum tantum majores in posterum providisse: in privatos homines leges ferri noluerunt; id est enim privilegium, quo quid est injustius? quum legis haec vis sit [ut sit] scitum et jussum in omnes. Ferri de singulis nisi centuriatis comitiis noluerunt."

But the Romans had other meanings of Privilegium, which was what they called Jus Singulare as opposed to Jus Commune. "Thus we have Privilegia of soldiers in making testaments (Dig. 28. 6. 15), the Privilegia of several classes of persons as excuses from 'tutela,' and very frequently Privilegia in favour of creditors 'in concursu,' especially the Fiscus, persons under age, &c." (Savigny, System, i. 62).

auctoritate . . . publicis litteris] The 'decretum' of Capua declared the Lex by which Cicero was banished to be a Privilegium. It was marked as a Privilegium by the authority of most honourable men and the public documents. Hotmann thought the passage obscure, and Wolf sneers at the 'rara formula.' Klotz explains it correctly, and says that the orator has similar forms of expression in a hundred other places; and adds: "let this be observed rather for those who would not understand the passage, than for those who really did not understand it."

autem officiis T. Annii beneficia remunerabor? cujus omnis actio, ratio, cogitatio, totus denique tribunatus nihil aliud fuit nisi constans, perpetua, fortis, invicta defensio salutis meae? Quid de P. Sestio loquar? qui suam erga me benevolentiam et fidem non solum animi dolore sed etiam corporis vulneribus ostendit?

Vobis vero, patres conscripti, singulis et egi et agam gratias. Universis egi [ab] initio quantum potui: satis ornate agere nullo modo possum. Et quamquam sunt in me praecipua merita multorum, quae sileri nullo modo possunt, tamen hujus temporis ac timoris mei non est conari commemorare beneficia in me singulorum; nam difficile est non aliquem, nefas quemquam praeterire. Ego vos universos, patres conscripti, deorum numero colere debeo. Sed ut in ipsis diis immortalibus non semper eosdem, atque alias alios solemus et venerari et precari, sic in hominibus de me divinitus meritis omnis erit aetas mihi ad eorum erga me merita praedicanda atque recolenda. Hodierno autem die nominatim a me magistratibus statui gratias esse agendas, et de privatis uni, qui pro salute mea municipia coloniasque adisset, populum Romanum supplex obsecrasset, sententiam dixisset eam quam vos secuti mihi dignitatem meam reddidistis. Vos me florentem semper ornastis: laborantem mutatione vestis et prope luctu vestro quoad licuit defen-

12. *T. Annii*] He has said all this about T. Annius and P. Sestius before (c. 8); and out of the fulness of his heart he says it again.

Universis egi] "This was in the beginning of his speech. Individuals he could not and did not intend to thank in this speech, but he had already privately paid his respects to them for this purpose or he had reserved this to be done. The words are so clear that we must do violence to ourselves not to understand them" (Klotz). This is in reply to Wolf, who observes that he had not thanked them in this speech, and we shall not find that he does: "nisi forte librarii, maligna natio, nos aliquot egregiis locis fraudarunt."

[*ab*] *initio*] 'initio,' Halm.

timoris mei] His 'timor' is the fear of omitting any if he should attempt to thank them singly, I suppose. Accordingly he passes over the individuals, and tells them that as a body they are worthy of the veneration due to the gods. This is beyond endurance. Markland found a difficulty in 'de me divinitus meritis,' for 'divinitus' means 'ex deo, sive adjuvantibus diis;' and the usual word would be 'de me divine meritis,' that is 'divino quodam modo.' But as he elevated the senate to the rank of gods (deorum numero), he is consistent in making the favours that he has received come from the gods. He still makes an exception in favour of one (uni), his friend Cn. Pompeius, the man who was shut up in his house so long, and accordingly he says over again what he has said in c. 11, with a small variation, as Wolf remarks. Here he says the senate followed the 'sententia' of Pompeius; in c. 11, the senate were all of one mind (apud vos qui omnes unum sentiebant).

Wolf has a note on 'timoris mei non est.' Those may answer his objections who can. I cannot. "Hoc quoque prima specie durum est. Antea profecto non timebat orator opprobria dicere. Cur ergo nunc in commemorandis beneficiis? Statim ad molliorem concentum redibit sententia: timet vir humanissimus, ne forte quemquam omittat, qui sibi gratias deberi putet. Sic saepe magni scriptores movent expectationem lectoris, quam paulo post explent. Quamquam si jam initio singulis egit gratias quid timet tantopere?"

distis. Nostra memoria senatores ne in suis quidem periculis mutare vestem solebant: in meo periculo senatus veste mutata fuit, quoad licuit per eorum edicta, qui mea pericula non modo suo praesidio sed etiam vestra deprecatione nudarunt.

Quibus ego rebus objectis, quum mihi privato confligendum viderem cum eodem exercitu quem consul non armis, sed vestra auctoritate superaram, multa mecum ipse reputavi. XIII. Dixerat in contione consul se clivi Capitolini poenas ab equitibus Romanis repetiturum. Nominatim alii compellabantur, alii citabantur, alii relegabantur. Aditus templorum erant non solum praesidiis et manu, verum etiam demolitione sublati. Alter consul ut me et rem publicam non modo desereret, sed etiam hostibus rei publicae proderet, pactionibus [eos] suorum praemiorum obligarat. Erat alius ad portas cum imperio in multos annos magnoque exercitu;

senatores ne in suis] Markland affirms this to be false, for he can collect examples of other senators in Cicero's time, who had changed their dress, Murena for instance, and P. Sulla (Pro Murena, c. 40; Pro Sulla, c. 31). It seems that Markland understood the text in the plain sense, "that within Cicero's memory senators were not accustomed to change their dress even when they were in difficulties themselves;" and so one would suppose that the text ought to be understood. Gesner answers Markland by giving this new interpretation to the words: "there were some who did not change their dress." But the words are too strong for Gesner; and the assertion in the text is false.

13. *Nominatim alii*] Cicero in the oration Pro Sestio (c. 15—22) tells the story of his going into exile at length. He says there 'Gradus templi (Castoris) tollebantur,' which is simply said. Here it is ornamented, 'demolitione sublati.' Clodius took away the steps of the temple of Castor after filling it with armed men (In Pison. c. 10).

Alter consul] The common reading in the editions is 'Alter consules ut me . . . pactionibus eos suorum,' &c. Halm says, '*consul* mei et Lagg.:' 'consules' is a conjecture. Halm writes 'se' in place of 'eos,' the MSS. reading. The consul 'qui dixerat' is Gabinius: the 'alter consul' is Piso. But though we may see that there is an allusion to the bargain with Clodius by which the consuls got their provinces, the sentence is corrupt.

alius ad portas] This is Caesar, who had got his province for five years. He was outside of Rome with a great army, four legions, as Klotz says, who remarks on the dexterous way in which our orator shows his relation to Caesar. Caesar says that he crossed the Alps to the Lake of Geneva to oppose the Helvetii, but he does not say what force he had with him. He found one legion only in Gallia Transalpina, and he recrossed the Alps to Aquileia to get three legions which had wintered there (B. G. i. 7. 8. 10), and to raise two more in Gallia Cisalpina. He led these five legions over the Alps to reinforce the troops near Geneva, the one legion which then was in the Provincia, and the troops that had been raised there after his first arrival. His own narrative proves that he took no troops from Rome, that he had no army before the gates; and the writer of this declamation shows great ignorance by placing Caesar at the gates of Rome with a large army. In the oration Pro Sestio, cc. 17, 18, we have the truth: "Ipse autem Caesar, quem maxime homines ignari veritatis mihi esse iratum putabant, erat ad portas, erat cum imperio, erat in Italia ejus exercitus, inque eo exercitu ipsius tribuni pl. inimici mei fratrem praefecerat." He says that Caesar was at the gates. He does not say that his army was; but it was in Italia, which means not at Rome. Dion Cassius (38. c. 17) says that Caesar was outside the city: *ὁ μέντοι Καῖσαρ, ἔξω γὰρ τοῦ τείχους ὁ Κλώδιος δι' αὐτὸν, ἐπειδήπερ ἐξεστράτευτο, τὸν ὅμιλον συναγαγὼν*, &c.: but he does not say what the Latin translation of Reimarus makes him say: "Jam Caesar milites extra urbem in expeditione habebat." Manutius says that he was at the gates with four legions with which he marched to the Gallic

quem ego inimicum mihi fuisse non dico; tacuisse quum diceretur esse inimicus scio. Duae partes esse in re publica quum putarentur, altera me deposcere propter inimicitias, altera timide defendere propter suspicionem caedis putabatur. Qui autem me deposcere videbantur, [in] hoc auxerunt dimicationis metum, quod numquam infitiando suspicionem hominum curamque minuerunt. Quare quum viderem senatum ducibus orbatum, me a magistratibus partim oppugnatum, partim proditum, partim derelictum, servos simulatione collegiorum nominatim esse conscriptos, copias omnes Catilinae paene iisdem ducibus ad spem caedis et incendiorum esse revocatas, equites Romanos proscriptionis, municipia vastitatis, omnes caedis metu esse permotos, potui, potui, patres conscripti, multis auctoribus fortissimis viris, me vi armisque defendere; nec mihi ipse ille animus idem meus, vobis non incognitus, defuit. Sed videbam, si vicissem praesentem adversarium, nimium multos mihi alios esse vincendos; si victus essem, multis bonis et pro me et mecum etiam post me esse pereundum, tribuniciique sanguinis ultores esse praesentes, meae mortis poenas judicio et posteritati reservari. XIV. Nolui, quum consul communem salutem sine ferro defendissem, meam privatus armis defendere, bonosque viros lugere malui meas fortunas quam suis desperare; ac si solus essem

war, and I suppose this is Klotz's authority. In the oration Pro Sestio (c. 19), after having said that Caesar was at the gates, Cicero adds, "intenta signa legionum existimari cervicibus vestris ac bonis falso, sed putari tamen." But this does not affirm that a large army or that four legions were before Rome. Caesar and Cicero both say that Caesar's legions were in Italia.

[*in*] *hoc auxerunt*] E. omits 'in,' and Halm also.—'numquam infitiando:' here we have a bit of a verse from the Atreus of Attius, as Asconius tells us in his remark on the In Pisonem (c. 33). The verse is:

> "Numquam istam imminuam curam infitiando tibi."

The passage is very obscure. Manutius observes that 'infitiando' must not be referred to those 'qui Ciceronem deposcebant,' but to those who were said by them to be Cicero's enemies. The words however do not mean that, for the subject of 'auxerunt' and 'minuerunt' are evidently the same persons. The original appears to be the following passage in the oration Pro Sestio, c. 18: "Me vero non illius oratio, sed eorum taciturnitas in quos illa oratio tam improba conferebatur: qui tum, quamquam ob alias caussas tacebant, tamen hominibus omnia timentibus tacendo loqui, non infitiando confiteri videbantur." This explains the other: "those who were supposed to demand that I should be given up to them, increased the alarm about a struggle, because they never by denial diminished men's suspicion and anxiety."

servos simulatione] Under pretence of forming 'collegia' or clubs he got slaves together, and all the rabble of the city (Pro Sestio, c. 25; In Pison. c. 4).

ipse ille animus] Halm writes 'ipsi,' the alteration of Heumann. The passage 'potui, potui . . . defuit' is ludicrous. If Cicero wrote it, he could hardly have the face to say it.

tribunicii sanguinis] Cicero, Pro Sestio, c. 19: "Quid erat dubium, quin ille sanguis tribunicius nullo praesertim publico consilio profusus consules ultores et defensores esset habiturus?" The expression 'judicio et posteritati' cannot mean 'for a trial and for posterity,' but for the judgment of posterity; and it is, as Wolf observes, 'color major Ciceroniana arte.'

interfectus, mihi turpe, si cum multis, rei publicae funestum fore videbatur. Quod si mihi aeternam esse aerumnam propositam arbitrarer, morte me ipse potius quam sempiterno dolore mulctassem. Sed quum viderem me non diutius quam ipsam rem publicam ex hac urbe afuturum, neque ego illa exterminata mihi remanendum putavi, et illa simul atque revocata est me secum pariter reportavit. Mecum leges, mecum quaestiones, mecum jura magistratuum, mecum senatus auctoritas, mecum libertas, mecum etiam frugum ubertas, mecum deorum et hominum sanctitates omnes et religiones afuerunt. Quae si semper abessent, magis vestras fortunas lugerem quam desiderarem meas; sin aliquando revocarentur, intelligebam mihi cum illis una esse redeundum. Cujus mei sensus certissimus testis est hic idem, qui custos capitis fuit, Cn. Plancius, qui, omnibus provincialibus ornamentis com-

14. *reportavit.*] E. F. have 'revocavit.' Wolf says, "Nec sane displicet *res publica Ciceronem reportans*, praesertim si currum auratum recogites;" the 'currus auratus' in which he returns in c. 11. The 'res publica' was 'exterminata,' sent out of the limits of the city, when Cicero was, or rather it was sent out before he went, and he would not stay after it was gone. This is very complimentary to all the rest who stayed. He does not say that he and the 'res publica' were together all the time that both of them were away; but the 'res publica' called for him and took him back.

But in the next sentence we learn that every thing left Rome when he did, and every thing returned with him (mecum, mecum). A more stale, flat piece of absurdity than this cannot be found even in a writer of the present day. But Markland has detected a serious falsehood. 'Frugum ubertas' returned with him, as he says in the next oration (c. 8). But Cicero tells us in a letter to Atticus (iv. 1) that on the nones of September, the day on which he addressed the Senate and the day before, provisions were exceedingly dear. Accordingly the fact is that scarcity came back with him; nor did prices fall until Pompeius was appointed 'praefectus annonae' by a Lex passed on the proposal of Cicero. If, says Markland, Cicero had spoken in this way to the Quirites on the Nonae Septembres or a. d. 8 Id. Septembres, the latest date to which we can assign the next speech, he would have been pelted with stones, and he would have deserved it for such an impudent lie. He might say what is said in the oration De Domo, c. 7, because that was delivered at the end of September.

Gesner answers Markland out of the oration De Domo, c. 6, where Cicero says that prices fell as soon as the Senate had passed a Decretum in favour of his return; but, as Wolf observes, the time he is there speaking of is the fourth of August. Prices fell a month before his return, if we accept this passage as authority; but that will not prove that the low prices continued a month after and existed at the time of Cicero's return. We know that prices were high when Cicero returned, and Clodius' faction said that Cicero's return was the cause of it. Klotz's note on the 'frugum ubertas' is this: "It had been a year of scarcity. We find in the following speeches still more on this matter, because Cicero succeeded in getting a commission to look after corn conferred on Pompeius." And this is all that a man has to say on this passage who tells us in his preface (p. 7) that "we think that for those who come to examine the question free from prejudice, we have sufficiently proved the genuineness of these speeches in the notes which accompany this volume." One can understand well enough that prices might fall in one month and rise again in another, especially if the scarcity was not real, but rather due to the dealers. And we know that it was not altogether a real scarcity, for prices fell as soon as Pompeius was appointed to look after the supplies.

Cn. Plancius,] Whom Cicero visited during his exile, when Plancius was quaestor in Macedonia. The words 'omnia provincialia ornamenta et commoda' are explained by the oration Pro Plancio, c. 41: "Nam simulac me Dyrrachium adtigisse

modisque depositis, totam suam quaesturam in me sustentando et conservando collocavit. Qui si mihi quaestor imperatori fuisset, in filii loco fuisset: nunc certe erit in parentis, quum fuerit quaestor non imperii, sed doloris mei.

Quapropter, patres conscripti, quoniam in rem publicam sum pariter cum re publica restitutus, non modo in ea defendenda nihil imminuam de libertate mea pristina, sed etiam adaugebo. XV. Etenim, si eam tum defendebam quum mihi aliquid illa debebat, quid nunc me facere oportet, quum ego illi plurimum debeo? Nam quid est quod animum meum frangere aut debilitare possit, cujus ipsam calamitatem non modo nullius delicti, sed etiam divinorum in rem publicam beneficiorum testem esse videatis? Nam [et] importata est, quia defenderam civitatem, et mea voluntate suscepta est, ne a me defensa res publica per eundem me extremum in discrimen vocaretur. Pro me non, ut pro P. Popillio, nobilissimo homine,

audivit (Plancius), statim ad me lictoribus dimissis, insignibus abjectis, veste mutata profectus est." He adds, "multosque menses a capite meo non discessit abjecta quaestoria persona comitisque sumpta." But this does not explain 'commoda.' Wolf has a note on this passage, which begins, "Plancii supra oblitus erat pius orator; itaque eum (nam *nefas quemquam praeterire*) commemorat ante portam claudendam."

The next sentence contains great difficulties. Halm says "verba *imperatori* et *cum fuerit . . . doloris mei* auctore Garatonio in Curis Sec. ad Plancianam p. 60 ut spuria significavi." This is a short way of settling the difficulty.

Markland says correctly that a man did not get a Quaestor in his capacity of Imperator; nor had Cicero yet had the title of Imperator. He only got it some years later when he was governor of Cilicia, and had obtained some victories over the mountaineers of the Amanus. Markland conjectures that the writer of this speech did not know the difference between Imperator and 'esse cum imperio,' which was said generally of a provincial governor. But whatever error there is in the use of Imperator here, we can hardly suppose that the writer of this speech did not know what Imperator meant, and the difference between that word and the expression 'cum imperio esse.' Gesner's answer is that what Cicero says, 'si mihi quaestor imperatori fuisset,' is said hypothetically; but still the question is why Imperatori, and not Praetori or Consuli, which would have been the usual form of expression. Wolf wonders that Gesner was not satisfied with Markland's exact and correct examination of this passage. But Wolf tells us why Imperatori is used. It was put in to prepare the way for the choice morsel 'quaestor non imperii sed doloris mei.' A 'quaestor imperii,' and a 'quaestor doloris' are a couple of monsters. "Quidni potius *Quaestorem lacrimarum?* ut tamen sit aliquid, quod custodire Quaestor, et in quo vim tituli sui exercere possit" (Wolf).

in rem publicam . . . cum re publica] Here he says he was re-established in the State together with the State. He and the State were restored to the State, which is flat nonsense; and contradicts what he just said, that the Res Publica left the city when he did, and when the Res Publica was recalled, she brought him back with her, not into the Res Publica, but into the city.

imminuam] E. F. Halm has 'minuam.' Heumann conjectured 'eam adaugebo.'

15. *divinorum . . . beneficiorum*] This is certainly rather too much for a man to say of himself, too much even for Cicero to say to the Roman Senate. "Tam magnifice Cicero non potuit in Senatu praedicare de meritis suis. Peccat in hac re omnemque modum excedit Auctor Declamationis *Antequam iret in exilium:* qui plane facit ut mali poetae, qui in scena personas suas inducunt ea loquentes, quaecumque ipsi sentiunt" (Wolf).

Pro me non,] "Hinc pleraque infracta apparent et quasi amputata. Homo malignior suspicetur Ciceronem haec properasse

adolescentes filii, non propinquorum multitudo populum Romanum est deprecata; non, ut pro Q. Metello, summo et clarissimo viro, spectata jam adolescentia filius; non L. et C. Metelli, consulares, non eorum liberi, non Q. Metellus Nepos, qui tum consulatum petebat, non Luculli, Servilii, Scipiones, Metellarum filii, flentes ac sordidati populo Romano supplicaverunt: sed unus frater, qui in me pietate filius, consiliis parens, amore ut erat frater inventus est, squalore et lacrimis et quotidianis precibus desiderium mei nominis renovari et rerum gestarum memoriam usurpari coegit. Qui quum statuisset, nisi per vos me recuperasset, eandem subire fortunam atque idem sibi domicilium et vitae et mortis deposceret, tamen numquam nec magnitudinem negotii nec solitudinem suam nec vim inimicorum ac tela pertimuit. Alter fuit propugnator mearum fortunarum et defensor assiduus, summa virtute et pietate, C. Piso gener, qui minas inimicorum meorum, qui inimicitias affinis mei, propinqui sui, consulis, qui Pontum et Bithyniam quaestor prae mea salute neglexit. Nihil umquam senatus de P. Popillio decrevit, numquam in hoc ordine de Q. Metello mentio facta est. Tribuniciis sunt illi rogationibus, interfectis inimicis, denique [nulla auctoritate senatus] restituti; quum alter eorum senatui paruisset, alter vim caedemque fugisset. Nam C. quidem Marius, qui hac hominum memoria tertius ante me consularis tempestate civili expulsus est, non modo a senatu non est restitutus, sed reditu suo senatum cunctum paene delevit. Nulla de illis magistratuum consensio, nulla ad rem publicam defendendam populi Romani convocatio, nullus Italiae motus, nulla decreta municipiorum et coloniarum exstiterunt. Quare, quum me vestra auctoritas arcessierit, populus Romanus vocarit, res publica implorarit, Italia cuncta paene suis humeris

fessum de itinere, et omnia corrasisse undique quae epilogum quendam facere videri possent" (Wolf).

pro P. Popillio,] Popillius and Q. Metellus Numidicus are coupled together by Cicero in the oration Pro Cluentio, c. 35, Vol. II. It was a 'locus communis' of Cicero.

usurpari] See Vol. I. Verr. ii. 5. c. 20, note.

Pontum et Bithyniam] Nothing is elsewhere said of C. Piso, Cicero's son-in-law, neglecting his duty as quaestor, or whatever the words may mean, to look after the interests of his father-in law.

senatum cunctum] There was murder in Rome after C. Marius returned, but 'senatum cunctum paene delevit' is very extravagant, though in harmony with the rest of the speech (Plutarch, Marius, c. 43); for the Declamator always exaggerates, and he exaggerates solely for the sake of antithesis and to round his sentence. Having nothing to say, he must lie rather than be silent.

paene suis humeris] Macrobius (Sat. ii. 3) records this expression of Cicero: "Ulcisci autem se Cicero videbatur, utqui respondisse sibi Vatinium meminerat, cum humeris se rei publicae de exsilio reportatum gloriaretur: Unde ergo tibi varices?" Plutarch also (Cicero, c 33): "Cicero was restored in the sixteenth month after his exile, and so great was the joy of the cities and the zeal of all men to meet him, that what was afterwards said by Cicero fell short of the truth: for he said that Italy

reportarit, non committam, patres conscripti, ut, quum ea mihi sint restituta, quae in potestate mea non fuerunt, ea non habeam, quae ipse praestare possim, praesertim quum illa amissa recuperarim, virtutem et fidem numquam amiserim.

bore him on her shoulders and carried him into Rome." Klotz takes this as evidence that Cicero publicly used this expression; and says that it may also be considered as an external evidence of its genuineness; it however occurs no where else in these speeches, and we may assume that Cicero purposely avoided using it afterwards.—But why should he avoid using it afterwards? because he was laughed at for it, I suppose. If he wrote this speech and published it, his enemies would have matter enough to laugh at as long as he lived.

The Declamator however does not say that all Italia brought him back on her shoulders: it brought him back 'paene suis humeris.' So Marius did not destroy all the Senate, but 'cunctum senatum paene delevit;' and the men were not called up from Acheron (c. 10), but 'paene ex Acheronte excitatos:' and he goes on in the same way all through these speeches (De Domo, c. 51).

INTRODUCTION

TO THE

ORATIO QUUM POPULO.

This speech is very like the other. It is, as Markland observes, a kind of abridgment of it, for not only the matter, but the words in many parts are the same. A man reading the first will think it bad enough, but when he gets to the second, he will find it is only the first made worse[1]. Manutius supposed that Cicero wrote it only, and did not deliver it, because he does not mention it in the letter to Atticus (iv. 1), where he mentions the other. But Dion Cassius (39. c. 9) says that Cicero addressed a speech of thanks both to the Senate and to the People. Wolf observes that if Dion had not mentioned this fact, or if this speech were not extant, scarcely any person could have supposed that Cicero had thanked the people from the Rostra. He adds that this letter (iv. 1) seems to show that he did not make a speech to the Quirites like that to the Senate. The facts, as Cicero tells them to Atticus, are these: On the day after his return, which day was the Nonae Septembres, Cicero thanked the Senate in the speech before this, or in another, which we have not. There was great dearness of provisions, and the people were clamorous about the Senate-house. The Senate had the question of the high prices before them; every body said that Pompeius should be appointed to look after supplies of corn, and the people called on Cicero to propose a Senatusconsultum to that effect. He did so; and a S. C. was made to this purport, that Pompeius should be asked to undertake a matter, which he was very eager to have

[1] Quum Senatui, c. 1: 'Immensum quiddam,' &c. Quum Populo, c. 2: 'Vestros denique honores.'—Quum Senatui, c. 3: 'Quo quidem mense,' &c. Quum Populo, c. 5: 'Hic tantum interfuit inter me,' &c.—Quum Senatui, c. 4: 'Princeps P. Lentulus,' &c. Quum Populo, c. 5: 'P. Lentulus consul.'—Quum Senatui, c. 4: 'Nec enim eguissem medicina,' &c. Quum Populo, c. 6: 'An ego . . . dubitarem quin,' &c. These and two other examples of repetition are cited by Markland, who says that they are scarcely one sixth part, as an attentive reader will discover. Cicero's invention had been dried up in his exile. It was all lost by crying.

in his hands, and that a Lex should be proposed to the people. When the Senatusconsultum was read and Cicero's name was heard, the people applauded, and Cicero made them a speech (habui contionem). He does not say what he spoke about, nor was it necessary to tell us, for we assume that he spoke about the matter of the Senatusconsultum. Those critics, whose judgment is sound, say that he does not here mean the Contio to the Quirites, in which he thanked them, but he means a speech about the price of provisions, and those matters. There is nothing in this letter about the present speech or the subject of it; and though this omission is not evidence that he did not deliver such a speech, the letter contains no evidence that he did. Ferracci assumes that the Contio which Cicero speaks of is this speech in which he thanked the people. Those who will read the letter carefully may form their own judgment.

It is urged that it was natural that Cicero should address the people and thank them for their votes by which the Lex was carried which restored him to Rome. This must be admitted. But why did he not thank them sooner than before the seventh of September, the day which is assigned by some critics as the day on which this oration was delivered (Ad Att. iv. 1)? It may be that he could not get the permission of the magistratus to do it sooner; for he says of the Contio which he did make on the occasion of the Senatusconsultum: "habui contionem: omnes magistratus praesentes praeter unum praetorem et duos tribunos pl. dederunt." "If it had been," says Klotz, "another occasion than his own on which Cicero wished to speak, he would not have expressly added these words, in which he points at the magistrates who were his political enemies." But he spoke on the occasion of the S. C. being read and his own name mentioned, and if he took this opportunity of thanking the people instead of speaking of the S. C., he did not act like a prudent man. He might have thanked the people, and spoken of the price of provisions too; but he says nothing of the scarcity in this speech. Klotz says he omitted to do so because there was no occasion to speak of it. There is no replying to some arguments except by making the contrary assertion. The Scholiast published by Mai takes this to be a genuine oration of Cicero. He says, "Restitutus M. Tullius, quod eandem causam beneficii videbat in suam dignitatem prope omnium favore conlati, quum grates egisset senatui, etiam populo consequenter gratias agendas arbitratus, in contionem processit; et eadem paene, quae apud patres conscriptos dixerat, nunc etiam populo audiente percenset."

Klotz fixes the date of this speech two days after the address to the Senate, and he says that this would be the seventh of September. Wolf does not admit that it could have been delivered 8 Idus Sept., as some

critics say, for that was a black day, an unlucky day, like all the days that were next to the Calends, Nones, and Ides. The speech in the Senate was delivered on the Nonae or fifth of September, as Cicero says (Ad Att. iv. 1). He then adds: "Eo biduo quum esset annonae summa caritas;" which two days are the day of his arrival and the next day on which he thanked the Senate. It seems (Ad Att. iv. 1) that he made his Contio about the scarcity also on the fifth of September. The words 'eo biduo' have been misunderstood by some critics. If Cicero thanked the people as he did the Senatus, it was perhaps on the day of his return, the fourth of September, though he does not say in the letter to Atticus that he did thank the people in a formal speech. There is some little obscurity about this matter in the letter to Atticus. Those who will read it carefully may judge if I or the critics have understood it best. Klotz's explanation of the 'eo biduo' is not correct. He understands it to mean two days after the day on which he thanked the Senate. If it was two full days after, he thanked the people on the eighth of September; but Klotz supposes that it was on the second day after the fifth of September.

Wolf observes that most of the commentators are not agreed which of these two orations has the greater merit; but the majority think that this oration Ad Quirites is much superior to the other; one of the older commentators, Xicho Polentonus, a man of very great simplicity, admired in it a 'divina eloquentia.'

Klotz says: "This speech also, which in its whole character is a mere echo of the preceding, with the necessary alterations as a matter of course with reference to the place where it was spoken, has been declared by some critics to be spurious; but yet for such insufficient reasons, that in fact one cannot help wondering how an opinion so untenable could find approval and credit with so many persons."—"The form of the speech, as well as the several expressions, are however altogether conformable to our orator's usual style of thinking and expression; and here also nothing but misconception could assail particulars. Accordingly we shall only have little to remark in particular upon this speech." This is very prudent. He has less than three pages of particulars upon it, and these three pages contain nothing. Halm has intitled this oration "M. Tullii Ciceronis quae fertur Oratio cum populo gratias egit." He has omitted the 'Quae fertur' in the title of the Quum Senatui.

The following are the MSS. cited by Halm:—

P. G. E. S. See the oration Quum Senatui.

V = Cod. Vaticanus num. 1525, olim Palatinus nonus Gruteri, a Car. Prienio collatus.

M. TULLII CICERONIS

ORATIO

QUUM POPULO GRATIAS EGIT.

I. Quod precatus a Jove Optimo Maximo ceterisque diis immortalibus sum, Quirites, eo tempore, quum me fortunasque meas pro vestra incolumitate, otio concordiaque devovi, ut, si meas rationes umquam vestrae saluti anteposuissem, sempiternam poenam sustinerem mea voluntate susceptam; sin et ea quae ante gesseram conservandae civitatis caussa gessissem, et illam miseram profectionem vestrae salutis gratia suscepissem, ut, quod odium scelerati homines et audaces in rem publicam et in omnes bonos conceptum jamdiu continerent, id in me uno potius quam in optimo quoque et in universa civitate deficeret; hoc si animo in vos liberosque vestros fuissem, ut aliquando vos patresque conscriptos, Italiamque universam memoria mei, misericordia desideriumque teneret; ejus devotionis me esse convictum judicio deorum immortalium, testi-

The common title of this oration in the editions is "Ad Quirites post reditum oratio." P. G. and the Schol. Bob. have, "Incipit cum Populo gratias egit."

1. *Quod precatus . . . maxime laetor, Quirites.*] The reader may exercise his patience in finding out the meaning of this long, clumsy sentence, the substance of which appears again in the oration De Domo, c. 57. The beginning of the oration Pro Murena (c. 1) is in a like style, but the matter is disposed of shortly. Markland says that these introductory words first made him begin to doubt about the genuineness of these orations.

deficeret;] 'Mei et Lagg. plerique,' Halm. There is a reading 'deflecterent' and 'deferrent,' and various emendations have been proposed. "Deficit in aliqua re (seu homine) impetus hostis, flamma, fulmen," &c. is Latin, as Wolf observes; but it cannot mean, 'omne odium consumitur in hoc,' as Graevius correctly observes that it could not. Cicero teaches us the use of the word in another place (Pro Quintio, c. 1. Vol. II.): "Ita quod mihi consuevit in ceteris caussis esse adjumento, id quoque in hac caussa deficit."

ejus devotionis . . . convictum] 'Me devovi,' and now he says 'ejus devotionis convictum.' 'I devoted myself,' and 'I rejoice that I was bound by my devotio.' In the De Domo, c. 57, this is expressed differently, "hanc ego devotionem capitis mei . . . tum denique convictam esse et commissam putabo." 'Devotionis convictum' is explained to be the same as 'voti damnatum;' but this is not the meaning of 'convictus' followed by a genitive, which is a common form of expression. The Scholiast says, "Vetuste locutus est; voti enim convictos dicimus eos qui ad effectum perveniant eorum quae sibi evenire semper optaverint. Convictum ergo se dicit."

monio senatus, consensu Italiae, confessione inimicorum, beneficio divino immortalique vestro, maxime laetor, Quirites. Et si nihil est homini magis optandum quam prospera, aequabilis perpetuaque fortuna secundo vitae sine ulla offensione cursu, tamen, si mihi tranquilla et placata omnia fuissent, incredibili quadam et paene divina qua nunc vestro beneficio fruor laetitiae voluptate caruissem. Quid dulcius hominum generi ab natura datum est quam sui cuique liberi? Mihi vero et propter indulgentiam meam et propter excellens eorum ingenium vita sunt mea cariores: tamen non tantae voluptati erant suscepti quantae nunc sunt restituti. Nihil cuiquam fuit umquam jucundius quam mihi meus frater. Non tam id sentiebam quum fruebar, quam tum quum carebam, et posteaquam vos me illi et mihi eum reddidistis. Res familiaris sua quemque delectat: reliquae meae fortunae recuperatae plus mihi nunc voluptatis afferunt quam tum incolumitatis afferebant. Amicitiae, consuetudines, vicinitates, clientelae, ludi denique et dies festi quid haberent voluptatis, carendo magis intellexi quam fruendo. Jam

laetitiae voluptate] 'An incredible and almost divine pleasure of delight.' The usual form of expression would be 'laetitia et voluptate,' as Markland observes, and he refers to the oration Pro Sulla, c. 32. But this writer overloads us with words. Every thing is 'incredibilis,' as Markland observes. In c. 2 there is a 'divinum atque incredibile genus dicendi;' which we have had already in the oration Quum Senatui, c. 1. In c. 2 of this speech there is an 'incredibilis pietas:' in the De Domo, c. 23, a 'squalor incredibilis.' The number of things 'inaudita' and 'divina' are perfectly miraculous. We stumble on them continually in these orations, but find them much more 'inaudita' than 'divina' or 'paene divina' (Quum Sen. c. 15).

tantae voluptati . . . quantae] The reading of the Scholiast, which is better than that of the MSS. 'tanta voluptate . . . quanta;' and we ought to give the author the benefit of it.

meus frater.] Hotmann tells us why he does not mention his wife; but I do not think there is any use in stating the reason. It is worth observing however that the wife is not mentioned. There is also no mention of the wife in the oration Quum Senàtui, c. 1. But he mentions her here in c. 3.

reliquae . . . recuperatae] He had not yet recovered his property (Ad Att. iv. 1); and Markland adds that he says so even in this oration, c. 8: "mihi quod potuit vis et injuria . . . permanebit." And in the oration De Domo, c. 56, he says: "Hic est enim reditus, pontifices, haec restitutio in domo, in sedibus, in aris, in focis, in diis penatibus recuperandis." The fact about the recovery of his property is anticipated here.—'ludi:' Cicero on several occasions expresses how little he cared for Ludi (Pro Archia, c. 6; Pro Plancio, c. 27; Ad Att. iv. 8; Ad Fam. vii. 1). Manutius, who had observed this inconsistency, observes that Cicero says this for the occasion (temporis caussa): "Sic scilicet diversis locis conjunctis virum eundem cognoscimus et amantem ludorum et non amantem" (Markland). Gesner explains the contradiction thus: "Nempe nunc *carendo intellexit*, etiam in his esse aliquid voluptatis." To this Wolf adds the following short remark, the true explanation of the difficulty: "Sapientior, credo, factus erat in exilio."

quam tum incolumitatis] Halm writes 'quam tum in incolumitate.' P. has 'quantum incolumitate,' pr. m., but 'quam tum incolumitatis,' corr., which is also the reading of G. E. S. V., and most of the MSS.; though E. V. have 'quantum.' But 'quantum' can represent 'quam tum.' Wolf preferred 'quam tum incolumitatis.' The common reading in the printed books is 'quam tum incolumi,' or 'quam tum incolumes.'

vero honos, dignitas, locus, ordo, beneficia vestra, quamquam mihi semper clarissima visa sunt, tamen ea nunc renovata illustriora videntur quam si obscurata non essent. Ipsa autem patria, dii immortales! dici vix potest quid caritatis, quid voluptatis habeat! quae species Italiae! quae celebritas oppidorum! quae forma regionum! qui agri! quae fruges! quae pulchritudo urbis! quae humanitas civium! quae rei publicae dignitas! quae vestra majestas! Quibus ego omnibus antea rebus sic fruebar ut nemo magis. Sed tamquam bona valetudo jucundior est iis qui e gravi morbo recreati sunt quam qui numquam aegro corpore fuerunt, sic ea omnia desiderata magis quam assidue percepta delectant. II. Quorsum igitur haec disputo? Quorsum? Ut intelligere possitis neminem umquam tanta eloquentia fuisse neque tam divino atque incredibili genere dicendi, qui vestram magnitudinem multitudinemque beneficiorum, quae in me fratremque meum et liberos nostros contulistis, non modo augere aut ornare oratione sed enumerare aut consequi possit. A parentibus, id quod necesse erat, parvus sum procreatus: a vobis natus sum consularis. Illi

quid voluptatis habeat!] The MSS. have 'habet.' Lambinus made the correction. The frigid bombast of this sentence will hardly please all, though it will please some.

tamquam bona valetudo] This is a common place and hardly wants the authority of Plato (Republic) quoted by the Scholiast, and by Klotz after him. It is as frigid as the rest; it is well said in Plato, because it is in its proper place. A thing well said but in the wrong place is spoiled.

2. *Quorsum igitur haec . . . Quorsum?* Yes, why has he said all this?—'Ut intelligere possitis,' &c. He has said it only as a flourish before introducing the 'divinum atque incredibile genus dicendi.'

parvus] This is omitted by G. The copyist found it rather too much. Who can read it without laughing? Hotmann supposed that 'id quod necesse erat' referred to 'parvus,' which makes the sentence more silly than it is. Graevius saw that these words refer to 'a parentibus procreatus sum;' and he thought that 'parvus' should be omitted, because he could not believe that a word so inept in this position at least could have come from the mouth of Tullius. Then we have 'a vobis natus sum consularis,' an expression which Tullius would hardly have used. Wolf remarks that Heinzius, the German translator, thought that nothing could be more beautiful or more true than the sentiment; and nothing more inconsiderate, unjust, frigid, and more pitiable than Graevius' censure. So men differ.

Klotz observes that the Scholiast made a correct remark on this: "Popularis magis quam pressa et gravis haec sententia videtur; sed facit ad aures vulgi, ut quum parentes procreaverint hominem, ipsi provexisse et quodammodo gradibus honorum conroborasse videantur senatoriam dignitatem." Klotz observes that we might add that Cicero made almost the whole of this introduction simply for the people; a very probable conjecture. Whom should he have made it for except those to whom it was addressed? And we must, he says, judge of it after this standard, if we would not be unjust towards our orator. I suppose he well knew his audience and chose for the occasion "aptum [eorum] auribus opimum quoddam et tamquam adipale dictionis genus" (Orator, c. 8), such as no Greek, much less Attic ears would have tolerated. Klotz further says: "the doubters would hardly have needed Gesner's perfectly correct explanation, if they had not approached the matter with a prejudiced judgment." This is said in answer to Markland and Wolf, though he does not mention their names.

We do not read Greek and Latin books, only because they are Greek and Latin.

mihi fratrem incognitum qualis futurus esset dederunt: vos spectatum et incredibili pietate cognitum reddidistis. Rem publicam illis accepi temporibus eam quae paene amissa est: a vobis eam recuperavi quam aliquando omnes unius opera servatam judicaverunt. Dii immortales mihi liberos dederunt: vos reddidistis. Multa praeterea a diis immortalibus optata consecuti sumus: nisi vestra voluntas fuisset, omnibus divinis muneribus careremus. Vestros denique honores, quos eramus gradatim singulos assecuti, nunc a vobis universos habemus, ut quantum antea parentibus, quantum diis immortalibus, quantum vobismetipsis, tantum hoc tempore universum cuncto populo Romano debeamus.

Nam quum in ipso beneficio vestro tanta magnitudo est ut eam complecti oratione non possim, tum in studiis vestris tanta animorum declarata est voluntas ut non solum calamitatem mihi detraxisse, sed etiam dignitatem auxisse videamini. III. Non enim pro meo reditu, ut pro P. Popillii, nobilissimi hominis, adolescentes

We suppose that the best writers of antiquity wrote better than modern writers, and that we find in them models of taste and expression. If then some persons shall believe this oration to be Cicero's, and even to be worthy of admiration, we must conclude that the principles by which our judgment and taste are directed, or ought to be directed, are still unsettled. Those who admire this oration, and those who find it miserable stuff, are so different that it is not likely they will agree about any thing.

Gesner's explanation, the last of his that I shall notice, shall be given in his own words: "Graevius, ut saepe festinabat in Cicerone, ita hic non attendebat ad antitheton, *parvus*, *Consularis*, atque adeo illud deleri, magna cum confidentia jubebat. At primum antiqua et πολυθρύλλητος sententia est, plus illis deberi, qui nobis vivendi cum virtute, cum dignitate, causas praestiterint, quam qui solam praebuerint causam nascendi: deinde, quidni placeret phantasia illa Quiritibus, hinc parvulum et vagientem suis in cunabulis Tulliolum Arpinatem cogitantibus, hinc M. Tullium Ciceronem sua cum praetexta toga et fascibus duodecim pro rostris vel praesidentem vel tonantem? Optabile videtur esse apud populum agenti, tales in mentem venire ineptias." There is nothing to say to such talk as this. If the Roman people liked these 'ineptiae,' they must have been very different from the Athenians: "quorum semper fuit prudens sincerumque judicium, nihil ut possent nisi incorruptum audire et elegans; eorum religioni quum serviret orator, nullum verbum insolens, nullum odiosum ponere audebat" (Orator, c. 8). In another passage (c. 30) Cicero tells us who is 'eloquens:' "Is erit igitur eloquens, ut idem illud iteremus, qui poterit parva summisse, modica temperate, magna graviter dicere." How does this description fit the speech before us? He proceeds to speak of the peculiar character of several of his own speeches, but he does not mention this. He says: "nulla est enim ullo in genere laus oratoria, cujus in nostris orationibus non sit aliqua, si non perfectio, at conatus tamen atque adumbratio." To what kind does this belong?

illis accepi . . . amissa est:] In place of 'eam,' the reading of Lag. 6 and S., the other MSS. have 'jam,' which would be out of place. Ernesti wrote 'amissa esset,' as the usage requires; but all the MSS. have 'est,' and there is no reason for mending the author's Latin.

The critics do not agree what those times were when he 'received the Res Publica,' which was in this pitiable state. If we suppose that 'accipere rem publicam,' an expression which is said not to occur elsewhere, means 'capessere vel attingere rem publicam' (Wolf), he may allude to the year of his consulship; or as some suppose to the condition of the State after the civil wars of Marius and Sulla.

3. *P. Popillii,*] Here we have them again. See the oration Quum Senatui, c. 15. Diadematus was L. Caecilius Metellus,

filii et multi praeterea cognati atque affines deprecati sunt: non, ut pro Q. Metello, clarissimo viro, jam spectata aetate filius, non L. Diadematus consularis, summa auctoritate vir, non C. Metellus censorius, non eorum liberi, non Q. Metellus Nepos, qui tum consulatum petebat, non sororum filii, Luculli, Servilii, Scipiones; permulti enim tum Metelli aut Metellarum liberi pro Q. Metelli reditu vobis ac patribus vestris supplicaverunt. Quod si ipsius summa dignitas maximaeque res gestae non satis valerent, tamen filii pietas, propinquorum preces, adolescentium squalor, majorum natu lacrimae populum Romanum movere potuerunt. Nam C. Marii, qui post illos veteres clarissimos consulares, hac vestra patrumque memoria tertius ante me consularis, subiit indignissimam fortunam praestantissima sua gloria, dissimilis fuit ratio. Non enim ille deprecatione rediit, sed in discessu civium exercitu se armisque revocavit. At me nudum a propinquis, nulla cognatione munitum, nullo armorum ac tumultus metu, C. Pisonis, generi mei, divina quaedam et inaudita auctoritas atque virtus fratrisque miserrimi atque optimi quotidianae lacrimae sordesque lugubres a vobis deprecatae sunt. Frater erat unus qui suo squalore vestros oculos inflecteret, qui suo fletu desiderium mei memoriamque renovaret; qui statuerat, Quirites, si vos me sibi non reddidissetis, eandem subire fortunam. Tanto in me amore exstitit ut negaret fas esse, non modo domicilio sed ne sepulcro quidem se a me esse sejunctum. Pro me praesente senatus hominumque praeterea viginti millia vestem mutaverunt: pro eodem [me] absente unius

consul B.C. 117, and a cousin of Metellus Numidicus. Halm has printed [aut Metellarum liberi] thus.

valerent,] Halm has written 'valebant.' The MSS. have 'valent,' except S. and 3 Lag.

tertius . . . consularis,] The other two were Popillius and Metellus Numidicus.

discessu civium] There is much better authority for 'discessu' than for the reading 'dissensu,' which some critics have preferred. Graevius says that no Latin writer has used 'discessus' to express the division of the people into factions. Wolf objects to 'dissensus' that it is not a Ciceronian form, and that he always uses 'dissensio,' though he has 'consensus,' 'consensio,' and 'assensus, assensio.' De Domo, c. 26.

inaudita auctoritas] The MSS. have 'auctoritas' except P., the reading of which is 'inaudita satque.' Ernesti wrote 'inaudita pietas,' which Halm has accepted. (Comp. Qui Senatui, c. 15: "summa virtute et pietate, C. Piso gener.") But this way of dealing with the text is contrary to sound criticism. The word 'auctoritas' is certainly rather more than we should expect Cicero to apply to Piso, who was only Quaestorius; and 'inaudita auctoritas' is something still more 'inauditum.' In the De Domo, c. 23, he has a 'squalor incredibilis et inauditus.'

Tanto in me] 'Fortunam; *nam* tanto,' Halm. The MSS. have 'tanto,' except a few which have 'et tanto.'

viginti millia] The number mentioned by Plutarch (Cicero, c. 31), and Plutarch may have got it from here, and so we may take this as probable evidence that this oration was extant in Trajan's time, when Plutarch wrote, or earlier. But Plutarch and the author of this oration may have found the story about the twenty thousand somewhere else. Plutarch's words are: "However at first nearly all the 'equites' changed their dress when Cicero did, and

squalorem sordesque vidistis. Unus hic qui quidem in foro posset esse mihi pietate filius, inventus est beneficio parens, amore idem qui semper fuit, frater. Nam conjugis miserae squalor et luctus, atque optimae filiae maeror assiduus filiique parvi desiderium mei lacrimaeque pueriles aut itineribus necessariis aut magnam partem tectis ac tenebris continebantur. Quare hoc majus est vestrum in nos promeritum, quod non multitudini propinquorum sed nobismetipsis nos reddidistis.

IV. Sed quemadmodum propinqui, quos ego parare non potui, mihi ad deprecandam calamitatem meam non fuerunt, sic, illud quod mea virtus praestare debuit, adjutores, auctores hortatoresque ad me restituendum ita multi fuerunt, ut longe superiores omnes hac dignitate copiaque superarem. Numquam de P. Popillio, clarissimo ac fortissimo viro; numquam de Q. Metello, nobilissimo et constantissimo cive; numquam de C. Mario, custode civitatis atque

not less than twenty thousand young men accompanied him with their hair uncut and joined in his suppliant entreaties." In the oration Pro Sestio, c. 12, Cicero speaks of this sympathy in less extravagant terms: 'quum omnes essent sordidati,' &c. See the oration Quum Senatui, c. 12, and the note.—'pro eodem [me]:' Halm has 'pro eodem' only.

qui quidem] Halm has the passage thus: "qui quidem in foro posset adesse mihi, pietate filius inventus est, beneficio parens." 'Posset adesse' is his own: the MSS. have 'posset esse.' Wolf has 'qui domi, qui in foro posset esse mihi' &c.; and others have followed him. Compare Quum Senatui, c. 15, "sed unus frater," &c.

filiique parvi . . . continebantur.] This is miserable stuff. The 'filius parvus' was born B.C. 64, "L. Julio Caesare, C. Marcio Figulo consulibus filiolo me auctum scito salva Terentia" (Ad Att. i. 2). He was seven years old. What does he mean by 'itineribus necessariis . . . continebantur?' It means, says Manutius, "cum ad amicorum domus irent."

nobismetipsis] Here the critics disagree. In the oration Quum Senatui, c. 1, he has the same expression, and he uses it in the common sense. You have restored to me my brother, and every thing, finally you have restored me to myself; which means you have restored me to my former condition; you have made me again what I was. Here he says 'you have restored me not to a number of kinsmen, but to myself,' meaning 'not at the entreaty or for the sake of numerous kinsfolk, but for my own sake.' Markland points out this unusual use of the words; and Gesner defends it. Wolf as usual falls upon Gesner, affirms that Markland is right, and ends with a very instructive remark: "Ac ne quis putet Ciceronem, utpote Romanum, aliquid audere potuisse in patria lingua: potuit utique; sed multa sunt in quibus eum noluisse, quod posset, appareat. Ita potuit etiam inepte scribere: sed id noluit facere; atque adeo diu noluit, ut tandem ne posset quidem. Hoc valet de rebus multis."

Klotz defends the text and the meaning, which is, he says, "you have restored me not out of regard to the number of my kinsfolk, as this in other like cases was done, but simply out of regard to myself."

4. *non fuerunt,*] 'Codd. praeter S. et Lag. 9: *non affuerunt* Lag. 9 et S.' Halm. Wolf had 'affuerunt,' and he has a note on this silly passage, which Halm quotes and asks why Wolf did not follow Graevius, who long ago corrected the passage. He does not see that it is immaterial for Wolf's note, whether he read 'fuerunt' or 'affuerunt.' Wolf says: "Lamentandus, non culpandus est bonus exsul, quod ei non affuerunt propinqui: nulli fuerunt, qui adessent: et quis parare sibi potest propinquos, cui natura vel *dii immortales* non dederunt?"

Halm prints 'sic illud, quod,' as if the pointing could alter the words. The Declamator means 'sic, id quod,' and it is not the common use of 'illud.'—Popillius and the rest make their appearance again; and c. 5 again:

"Ecce iterum Crispinus."

imperii vestri, in senatu mentio facta est. Tribuniciis superiores illi rogationibus, nulla auctoritate senatus sunt restituti. Marius vero non modo non a senatu, sed etiam oppresso senatu est restitutus; nec rerum gestarum memoria in reditu C. Marii, sed exercitus atque arma valuerunt. At de me ut valeret semper senatus flagitavit: ut aliquando perficeretur, quum primum licuit, frequentia atque auctoritate perfecit. Nullus in eorum reditu motus municipiorum et coloniarum factus est; at me in patriam ter suis decretis Italia cuncta revocavit. Illi inimicis interfectis, magna civium caede facta, reducti sunt: ego iis a quibus ejectus sum provincias obtinentibus, inimico autem optimo viro et mitissimo, altero consule referente reductus sum; quum is inimicus, qui ad meam perniciem vocem suam communibus hostibus praebuisset, spiritu dumtaxat viveret, re quidem infra omnes mortuos amandatus esset. V. Numquam de P. Popillio L. Opimius, fortissimus consul, numquam de Q. Metello non modo C. Marius, qui erat inimicus, sed ne is quidem qui secutus est M. Antonius, homo eloquentissimus, cum A. Albino collega senatum aut populum est cohortatus. At pro me superiores consules semper ut referrent flagitati sunt, sed veriti sunt ne gratiae caussa facere viderentur,

ut valeret] 'de me ut valeret rerum gestarum memoria;' 'ut aliquando perficeretur' the 'rerum gestarum memoriam valere.' Markland misunderstood this. Halm has 'aliquando proficeret.'—'ter suis decretis:' there were neither three 'leges' nor three 'plebiscita,' for he means these, says Wolf, for he says 'Italia cuncta.' But the word 'decretis' is also the wrong word.

inimicis interfectis,] Marius did the work himself. He made Rome flow with blood. Popillius Laenas returned to Rome after the death of C. Gracchus, B.C. 121 (Cicero, Brutus, c. 25). Metellus Numidicus did not return till B.C. 99, after the death of Saturninus and his partizans.

altero consule] 'Altero consule, *consule* referente;' Mommsen, followed by Halm. Some MSS. have 'inimico hoc' without 'autem.' The 'is inimicus' is P. Clodius, as some suppose; Sex. Atilius, as Manutius and others suppose. Some suppose it is Aelius Staienus. Those who heard this speech, if any body ever heard it, would know no more than we do who is meant. None of these men were dead. Indeed he says of this 'inimicus' that he lived 'spiritu,' but in fact (re) 'infra omnes mortuos amandatus esset.' What could be more ridiculous than this? It means that he was really dead (re), and only seemed to be alive. Markland compares a passage in the oration Pro P. Quintio, c. 15, where the orator qualifies the words: "non modo ex numero vivorum exturbatur, sed, si fieri potest, etiam infra mortuos amandatur." But not 'infra omnes mortuos.'

5. *L. Opimius,*] He was consul B.C. 121 with Q. Fabius Maximus, and he was the man who followed Gracchus to his death; a cruel, bloodthirsty man, yet 'fortissimus consul.' He afterwards took a bribe from Jugurtha when he was sent into Africa to divide the dominions of Micipsa between Jugurtha and Adherbal. Cicero always speaks well of this villain; and the false Cicero is true to his original here.

M. Antonius is the great orator, who was consul B.C. 99.

gratiae caussa] He is speaking sarcastically. He calls Piso an 'affinis,' because he was a kinsman of Cicero's son-in-law, Piso. The other consul is Gabinius. After he had been proconsul of Syria he was prosecuted B.C. 54 on a charge of Repetundae, and Cicero defended this dishonest tool of Pompeius. The plain meaning of the text is that Cicero had undertaken to defend Gabinius in a 'caussa capitalis,' when he made this supposed speech (B.C. 57). We

quod alter mihi affinis erat, alterius caussam capitis receperam: qui provinciarum foedere irretiti totum illum annum querelas senatus, luctum bonorum, Italiae gemitum pertulerunt. Kalendis vero Jan. posteaquam orba res publica consulis fidem tamquam legitimi tutoris imploravit, P. Lentulus consul, parens, deus, salus nostrae vitae, fortunae, memoriae, nominis, simulac de [solemni] religione rettulit, nihil humanarum rerum sibi prius quam de me agendum judicavit. Atque eo die confecta res esset, nisi is tribunus plebis, quem ego maximis beneficiis quaestorem consul ornaveram, quum et cunctus ordo, et multi eum summi viri orarent, et Cn. Oppius socer, optimus vir, ad pedes flens jaceret, noctem sibi ad deliberandum postulasset; quae deliberatio non in reddenda, quemadmodum nonnulli arbitrabantur, sed ut patefactum est in augenda mercede consumpta est. Postea res acta est in senatu alia nulla; quum variis rationibus impediretur, voluntate tamen perspecta senatus caussa ad vos mense Jan. deferebatur. Hic tantum interfuit inter me et inimicos meos. Ego, quum homines in tribunali Aurelio palam conscribi centuriarique vidissem, quum intelligerem veteres ad spem caedis Catilinae copias esse revocatas, quum viderem ex ea parte homines, cujus partis nos vel principes numerabamur, partim quod mihi inviderent, partim quod sibi timerent, aut proditores esse aut desertores salutis meae, quum duo consules, empti pactione provinciarum, auctores se inimicis rei publicae tradidissent, quum egestatem, avaritiam, libidines suas viderent expleri non posse, nisi me constrictum domesticis hostibus dedidissent, quum senatus equitesque Romani flere pro me ac

know of no other occasion when he defended him or undertook to defend him. Those who say that the genuineness of this oration is maintained by observing that Cicero does not affirm that he had defended Gabinius, but that he had undertaken his defence, are neither wise nor honest advocates. It is a clear historical blunder.

deus,] There is a reading 'deus salutis nostrae,' which some prefer. Cicero uses 'deus' thus in the De Or. i. 23: "te quum in dicendo semper putavi deum." Lentulus is a 'deus' also in the oration Quum Senatui, c. 4: "Princeps P. Lentulus, parens ac deus nostrae vitae, fortunae, memoriae, nominis;" which is nearly the same thing repeated. There is the same expression in Pro Sestio, c. 69.—'[solemni] religione:' Graevius observes that one MS. omits 'solemni,' the S. of Halm. Instead of 'solemni' the MSS. cited by Halm have 'de solem de,' or 'sole,' or 'de sole.' Ernesti well observes that in such a case the Romans said 'de religione referre' without the idle epithet 'solemnis.' The first 'relatio' of the consuls after entering on their office was about the Latinae Feriae, which were celebrated on the Alban mountain (Cicero, Ad Att. i. 3).

is tribunus] Sex. Atilius.—'non in reddenda . . . mercede:' Markland mistook this, and Gesner explained it right. He took a night to deliberate not about giving back the money that he had got from Cicero's enemies, but in getting more. Compare Pro Sestio, c. 34, where the matter is told in a plainer way: "nec ausus est, quum esset emptus, intercedere: noctem sibi ad deliberandum postulavit." — 'perspecta:' 'ed. Crat., *perfecta* codd.' (Halm.)

in tribunali] Compare Pro Sestio, c. 15, where he has the word 'decuriarentur.'

mutata veste vobis supplicare edictis atque imperiis vetarentur, quum omnium provinciarum pactiones, quum omnia cum omnibus foedera reconciliatione gratiarum sanguine meo sancirentur, quum omnes boni non recusarent quin vel pro me vel mecum perirent, armis decertare pro mea salute nolui, quod et vincere et vinci luctuosum rei publicae fore putavi. At inimici mei, mense Jan. quum de me ageretur, corporibus civium trucidatis, flumine sanguinis meum reditum intercludendum putaverunt. VI. Itaque quum ego afui, eam rem publicam habuistis ut aeque me atque illam restituendam putaretis. Ego autem, in qua civitate nihil valeret senatus, omnis esset impunitas, nulla judicia, vis et ferrum in foro versaretur; quum privati parietum [se] praesidio, non legum tuerentur, tribuni plebis vobis inspectantibus vulnerarentur, ad magistratuum domos cum ferro et facibus iretur, consulis fasces frangerentur, deorum immortalium templa incenderentur, rem publicam esse nullam putavi. Itaque neque re publica exterminata mihi locum in hac urbe esse duxi, nec, si illa restitueretur, dubitavi quin me secum ipsa reduceret. An ego, quum mihi esset exploratissimum P. Lentulum proximo anno consulem futurum, qui illis ipsis rei publicae periculosissimis temporibus aedilis curulis me consule omnium meorum consiliorum particeps periculorumque socius fuisset, dubitarem quin is me confectum consularibus vulneribus consulari medicina ad salutem reduceret? Hoc duce, collega autem ejus, clementissimo atque optimo viro, primo non adversante, post etiam adjuvante, reliqui magistratus paene omnes

At inimici mei,] Wolf observes that this is a feeble conclusion after such a pompous preface. The Declamator has the same in the oration Quum Senatui, c. 3, but better expressed. Wolf compares a passage in the Paradox. i. 3: "Scipiones adventum Carthaginiensium corporibus suis intercludendum putaverunt." He adds, "His addidit Orator *flumen sanguinis*, haud male; vellemus modo, orationis flumen minus obstructum esset." He further observes that while we were expecting to hear something more of the rage of his enemies in the month of January, taken from the Pro Sestio, c. 35, all at once he carries us back to his reasons for going into exile (compare Quum Senatui, c. 13). And he mixes with this many things that happened long after he went into exile, which accordingly ought not to have been mentioned among the causes of his leaving Rome: "Unde, si alibi usquam, intelligitur Declamatoris crassam negligentiam rerum nil nisi sonantia verba quaesisse" (Wolf).

In the beginning of c. 6 we have more of this tiresome talk. A long sentence, 'Ego autem,' ends with the platitude 'rem publicam esse nullam putavi.' However, in the following sentence we are comforted. The Res Publica did exist, but it was 'exterminata.' It was driven away from Rome before he went. This is a repetition of a stale story (comp. Quum Senatui, c. 14).

6. *exploratissimum*] He was most certain that Lentulus would be consul in B.C. 57. P. Lentulus Spinther was Aedilis Curulis in Cicero's consulship, and the Praetor Lentulus, the great conspirator, was put 'in libera custodia' with him.

Wolf says "ridicule divinus homo, et mentitur idem." Certainly we find no signs of this certainty about his return in Cicero's letters to his most intimate friend Atticus (lib. iii.). On the contrary, he says that his hopes were small, or none (Ad Att. iii. 12 and 22).

fuerunt defensores salutis meae. Ex quibus excellenti animo, virtute, auctoritate, praesidio, copiis, T. Annius et P. Sestius praestanti in me benevolentia et divino studio exstiterunt: eodemque P. Lentulo auctore et pariter referente collega, frequentissimus senatus, uno dissentiente, nullo intercedente, dignitatem meam quibus potuit verbis amplissimis ornavit, salutem vobis, municipiis, coloniis omnibus commendavit. Ita me nudum a propinquis, nulla cognatione munitum, consules, praetores, tribuni plebis, senatus, Italia cuncta semper a vobis deprecata est; denique omnes, qui vestris maximis beneficiis honoribusque sunt ornati, producti ad vos ab eodem, non solum ad me conservandum vos cohortati sunt, sed etiam rerum mearum gestarum auctores, testes, laudatores fuerunt.

VII. Quorum princeps ad cohortandos vos et ad rogandos fuit Cn. Pompeius, vir omnium qui sunt, fuerunt, erunt, virtute, sapientia ac gloria princeps; qui mihi unus uni privato amico eadem omnia dedit, quae universae rei publicae, salutem, otium, dignitatem. Cujus oratio fuit, quemadmodum accepi, tripartita. Primum vos docuit meis consiliis rem publicam esse servatam, caussamque meam cum communi salute conjunxit, hortatusque est ut auctoritatem senatus, statum civitatis, fortunas civis bene meriti defenderetis: tum me in perorando posuit [vos] rogari a senatu, rogari ab equitibus Romanis, rogari ab Italia cuncta; deinde ipse ad extremum pro mea vos salute non rogavit solum, verum etiam obsecravit. Huic ego homini, Quirites, tantum debeo quantum

uno dissentiente,] His old enemy Clodius, some suppose. Some suppose that another is meant.

nudum a propinquis,] The words of c. 3 repeated, as if he could not say the same thing too often. We have the 'propinqui' again c. 4; but those were a very particular kind of 'propinqui, quos ego parare non potui.'

ab eodem,] ed. Ascens. 1511. The codd. have 'ab eadem,' except two which omit it. But Lentulus is meant.

7. *Cn. Pompeius,*] The genuine Cicero did not spare his flattery to Pompeius. The Declamator exalts him with a 'sunt, fuerunt, erunt.' He is 'princeps' at the beginning of the sentence, and 'princeps' at the end. In the Quum Senatui (c. 3) Pompeius is "omnium gentium, omnium saeculorum, omnis memoriae facile princeps." Manutius quotes another example of this expression in a letter of Cicero to D. Brutus: "homini nequissimo omnium, qui sunt, qui fuerunt, qui futuri sunt."

quemadmodum accepi,] He had been told what Pompeius said and how he divided his speech; and now he tells the people, who had heard it before; and if any of them had not, they would not learn much from this most feeble 'partitio.' Comp. Pro Sestio, c. 50: "Productus est ab eo Cn. Pompeius, qui se non solum auctorem meae salutis, sed etiam supplicem populo Romano *praebuit.* Hujus oratio ut semper gravis et grata in contionibus fuit, sic contendo numquam neque eloquentia neque jucunditate fuisse majore." This is the genuine Cicero.—'tripertita,' Halm.

me in perorando] 'Me' is in the codd., but omitted in the editions (Halm). The [vos] is only omitted by E. Wolf remarks that 'posuit' is thus used in written language, not in speech. See De Domo, c. 44: "Posuit scilicet Scatonem illum."

hominem homini debere vix fas est. Hujus consilia, P. Lentuli sententiam, senatus auctoritatem vos secuti in eo me loco in quo vestris beneficiis fueram, iisdem centuriis quibus collocaratis reposuistis. Eodem tempore audistis eodem ex loco summos viros, ornatissimos atque amplissimos homines, principes civitatis, omnes consulares, omnes praetorios eadem dicere, ut omnium testimonio per me unum rem publicam conservatam esse constaret. Itaque quum P. Servilius, gravissimus vir et ornatissimus civis, dixisset opera mea rem publicam incolumem magistratibus deinceps traditam, dixerunt in eandem sententiam ceteri. Sed audistis eo tempore clarissimi viri non solum auctoritatem, sed etiam testimonium, L. Gellii: qui, quia suam classem attentatam magno cum suo periculo paene sensit, dixit in contione vestra: Si ego consul quum fui non fuissem, rem publicam funditus interituram fuisse.

VIII. En ego tot testimoniis, Quirites, hac auctoritate senatus, tanta consensione Italiae, tanto studio bonorum omnium, agente P. Lentulo, consentientibus ceteris magistratibus, deprecante Cn. Pompeio, omnibus hominibus faventibus, diis denique immortalibus frugum ubertate, copia, vilitate reditum meum comprobantibus, mihi, meis, rei publicae restitutus, tantum vobis quantum facere possum, Quirites, pollicebor: primum, qua sanctissimi homines pietate erga deos immortales esse soleant, eadem me erga populum

iisdem centuriis] By the votes of the Comitia Centuriata.

Itaque quum P. Servilius,] And what accordingly, consequently (itaque) says this 'gravissimus vir?' Just the same as the "summi viri, ornatissimi atque amplissimi homines, principes civitatis, omnes consulares, omnes praetorii." And what next after he has said it? Why, the 'ceteri' say the same. Does any man suppose that Cicero ever wrote in this way; that he could write this way? What says L. Gellius? You heard not only his 'auctoritas,' but his 'testimonium.' And what was his 'testimonium?' Exactly what every body had said and every body knew, as the genuine Cicero would have us believe. Gellius 'paene sensit,' he almost saw or almost felt or almost knew some way that his 'classis' was assailed to his great danger. If he had been quite sure, his 'testimonium' would have been stronger. His 'classis,' says Manutius, is the 'classis' of which he was 'custos' at the voting; for at the Centuriata Comitia the classes in which the 'populus' was distributed by king Servius Tullius were called to the vote. But this cannot be accepted, particularly if the allusion is to the vote at the Comitia by which Cicero was recalled.

Ferratius conjectures that Gellius commanded a fleet during the first conspiracy of Catilina (Sallust, Cat. c. 14), when Cn. Pompeius was conducting the war against the pirates; for Gellius at that time was in command of a fleet as legatus of Pompeius in the Tuscan sea: "Gellius Tusco mari impositus" (Florus, iii. 6, 8). The conspirators, he supposes, attempted to corrupt the fleet; and L. Gellius 'paene sensit.'

vestra: Si] ed. Crat., 'vestrum si' codd. Halm points it thus: 'vestrum si ego consul,' &c., with this remark: "Vis argutae sententiae videtur; nisi ego, cum consul fui, vobis consuluissem." A very 'arguta sententia' indeed: rather a miserable play on words.

8. *En ego tot*] "'His ego' scripsi" (Halm). All the MSS. which he mentions have 'En ego,' or 'En ego tot.' The text is probably corrupt.

frugum ubertate,] See Quum Senatui, c. 12, and the note.

Romanum semper fore numenque vestrum aeque mihi grave et sanctum ac deorum immortalium in omni vita futurum: deinde, quoniam me in civitatem res publica ipsa reduxit, nullo me loco rei publicae defuturum. Quod si quis existimat me aut voluntate esse mutata aut debilitata virtute aut animo fracto, vehementer errat. Mihi, quod potuit vis et injuria et sceleratorum hominum furor detrahere, eripuit, abstulit, dissipavit: quod viro forti adimi non potest, id manet et permanebit. Vidi ego fortissimum virum, municipem meum, C. Marium,—quoniam nobis, quasi aliqua fatali

numenque vestrum] This startles a reader: "and your divinity shall be as solemn in my judgment and as holy as the divinity of the immortal gods." Just as in the De Domo (c. 39) he says "O dii immortales . . . vestrum numen horret?" Markland observes that Cicero, Pro C. Rabirio, c. 2, says of the Quirites, "quorum potestas proxime ad deorum immortalium numen accedit;" and there is a passage in the Pro Murena, c. 1, which goes a little further: "Omnis deorum potestas aut translata est ad vos aut certe communicata vobiscum;" and again in the Pro Cluentio, c. 69, there is something to the like effect addressed to the judices. But 'your divinity' is more than this. Gesner asks in reply to these objections, what shall we say of the passage in the De Lege Agraria, ii. 35, "Haec qui prospexerunt, majores nostros dico, non eos in deorum immortalium numero venerandos a nobis et colendos putatis?" We shall say that there is a very great difference between speaking of the 'majores' as raised to the company of the deities for their great deeds, and addressing the rout of Rome by the title of 'your divinityship.'

C. Marium . . . tum se . . . miserum,] Markland thought that it should be 'non fuisse miserum,' as Hotmann also had thought, in order that the whole sentence may be consistent. Hotmann supposed it to be inconsistent to say that Marius was a courageous and firm man, that he never lost his manly spirit (virtutem animi), and to say at the same time that he was 'miser,' unhappy, wretched. However we cannot alter an author simply to mend him; and it is plain that this alteration would not improve the original. The whole passage is one of the most absurd. The parenthetical clause 'quoniam . . . belligerandum fuit' contains, I suppose, the author's reason for mentioning Marius. He compares Marius and himself, both of whom had fought 'cum his qui haec delere voluissent.' He of course alludes to Cicero's consulship, but it is not certain to what part of Marius' life he alludes. In order that it may be possible to establish a comparison, he ought to mean Marius' enemies, who drove him from Rome; but this would be a very strange kind of comparison, for Marius was driven out by the faction of Sulla. He resumes—'eum tamen vidi.' If any body will explain what 'tamen' means here, he will deserve thanks. The word 'belligerando' or 'belligerendo' occurs in the speech Pro Fonteio, c. 16.

He saw Marius and he heard him say what he says that he did say. This seems to show a certain familiarity with the old soldier after he had returned from Africa and filled Rome with carnage. Marius was driven out of Rome B.C. 88. His escape and adventures are told by Appian (B. C. i. 55—62) and by Plutarch (Sulla and Marius). The marshes of Minturnae, the mud and the prison, the begging in Africa, where the magniloquent writer falsely says that he 'had given kingdoms,' formed a rhetorical common-place.

> "Exsilium et carcer Minturnarumque paludes,
> Et mendicatus victa Carthagine panis."
> (Juv. x. 276.)

The Declamator has forgotten the prison of Minturnae and the tragic scene with the barbarian who was sent in to kill Marius. But he has told us that C. Marius being plunged in the mud saved his 'corpus ac vitam' by the Minturnenses flocking to help him, and pitying his misfortunes. He means of course that they helped him out of the mud, for he saved his 'corpus' that way, which was heavy and unwieldy; and he saved not only his 'corpus' but his 'vita;' which we might perhaps have inferred without being told. We have the story in the genuine Cicero (Pro Sestio, c. 22: "Memineram, judices, divinum illum virum . . . C. Marium," &c.), where it is told in a different way; and though the prison is omitted there also, the brief narrative is in Cicero's best style.

Marius entered Rome again in B.C. 87,

necessitate, non solum cum his, qui haec delere voluissent, sed etiam cum fortuna belligerandum fuit—eum tamen vidi, quum esset summa senectute, non modo non infracto animo propter magnitudinem calamitatis, sed confirmato atque renovato. Quem egomet dicere audivi, tum se fuisse miserum, quum careret patria quam obsidione liberavisset; quum sua bona possideri ab inimicis ac diripi audiret; quum adolescentem filium videret ejusdem socium calamitatis; quum in paludibus demersus concursu ac misericordia Minturnensium corpus ac vitam suam conservaret; quum parva navicula trajectus in Africam, quibus regna ipse dederat, ad eos inops supplexque venisset; recuperata vero sua dignitate, se non commissurum ut, quum ea, quae amiserat, sibi restituta essent, virtutem animi non haberet quam numquam perdidisset. Sed hoc inter me atque illum interest, quod ille, qua re plurimum potuit, ea ipsa re inimicos suos ultus est, armis; ego qua consuevi utar; quoniam illi arti in bello ac seditione locus est, huic in pace atque otio. Quamquam ille animo irato nihil nisi de inimicis ulciscendis agebat; ego de ipsis inimicis tantum quantum mihi res publica permittet cogitabo. IX. Denique, Quirites, quoniam me quattuor omnino hominum genera violarunt, unum eorum, qui odio rei publicae, quod eam ipsis invitis conservaram, inimicissimi mihi fuerunt; alterum, qui per simulationem amicitiae nefarie [me] prodiderunt; tertium, qui, quum propter inertiam suam eadem

and his return was accompanied by murder and plunder. It does not appear, I think, at what time of the year Marius entered Rome; but the events which are related seem to show that it was late. He and Cinna declared themselves consuls for the year B.C. 86, but Marius died in the month of January of that year (Appian, B C. i. 75). The time between his return and his death was a dreadful period of proscription and murder; and it seems very unlikely that Cicero saw any thing of Marius after his return, unless he heard him make a Contio. During all the time after his return Marius "nihil nisi de inimicis ulciscendis agebat," says the writer, and though Cicero might be in no danger from his 'municeps,' it is probable that he kept out of his way. But we know nothing exact of this period of Cicero's life.

But what did Marius say after this long and tiresome preface, 'tum se fuisse miserum,' &c.? He said, "se non commissurum . . . quam numquam perdidisset." It would not be possible to invent any thing less appropriate to the character of this ferocious man. He speaks of the old consul as being "non infracto animo propter magnitudinem calamitatis, sed confirmato atque renovato:" a singular way of describing the state of a man's mind who was half mad, worn out with disease, who shed blood without mercy, and died in a short time exhausted by his own vengeance and filled with terror at the expected return of his enemy Sulla, as cruel as himself, and young and vigorous (Plut. Marius, c. 45, &c.).—'conservaret:' 'conservasset,' Manutius.

utar;] 'P. G. E. V. et 6 Lagg., om. Lag. 7; *pietate utar* (S.) vel *utar pietate* S. et rell. Lagg.' (Halm). In place of 'pietate' other words have been proposed.

9. *quattuor omnino genera*] Compare Pro Sestio, c. 20, where he enumerates six 'genera.'—'[me] prodiderunt:' there is some authority for 'me;' but Halm omits it.—'facinora singula:' Halm has inserted 'eorum' between 'facinora' and 'singula.' Orelli has 'genera singula' from the ed. of Nauger.

assequi non possent, inviderunt laudi et dignitati meae; quartum, qui, quum custodes rei publicae esse deberent, salutem meam, statum civitatis, dignitatem ejus imperii, quod erat penes ipsos, vendiderunt; sic ulciscar facinora singula, quemadmodum a quibusque sum provocatus: malos cives rem publicam bene gerendo, perfidos amicos nihil credendo atque omnia cavendo, invidos virtuti et gloriae serviendo, mercatores provinciarum revocando domum atque ab iis provinciarum rationem repetendo. Quamquam mihi majori curae est, quemadmodum vobis, qui de me estis optime meriti, gratiam referam, quam quemadmodum inimicorum injurias crudelitatemque persequar. Etenim ulciscendae injuriae facilior ratio est quam beneficii remunerandi, propterea quod superiorem esse contra improbos minus est negotii quam bonis exaequari; tum etiam ne tam necessarium quidem est male meritis quam optime [meritis] referre quod debeas. Odium vel precibus mitigari potest, vel temporibus rei publicae communique utilitate deponi, vel difficultate ulciscendi teneri, vel vetustate sedari: bene meritos quin colas nec exorari fas est neque id rei publicae repetere utcumque necesse est; neque est excusatio difficultatis, neque aequum est tempore et die memoriam beneficii definire. Postremo qui in ulciscendo remissior fuit, in eorum aperte utitur: at gravissime vituperatur, qui in tantis beneficiis, quanta vos in me contulistis, remunerandis est tardior, neque solum ingratus, quod ipsum grave est, verum etiam impius appelletur necesse est. Atque in officio

mercatores provinciarum] Cicero delivered a few months after a speech De Provinciis Consularibus, which is extant.

Etenim ulciscendae] All that follows to the end of the chapter is the trifling of a wordy rhetorician. There are a few strange expressions also; for instance, 'superiorem esse contra improbos.'—'optime [meritis]:' the second 'meritis' is omitted in several MSS.

bene meritos quin colas] Halm writes 'ne bene meritos colas,' for which he gives no authority except the reading 'bene meritos ne colas' of Lag. 25.—The words 'neque id rei publicae repetere' have been understood in various ways. Perhaps the writer means to say that in no case can the Res Publica require us not to show our gratitude to those who have served us. Halm writes 'neque id rei publicae remittere,' the conjecture of Garatoni. For 'utcumque' Halm has 'utique.'

in eorum aperte utitur:] 'P. G. E. V. Lag. 21. 25 (sed P. pr. m. *apperte;* E. V. *meorum*); reliqui plerique (item O.) *mox aperte laudatur*' (Halm). He writes 'in eo suo jure aperte utitur,' which is Mommsen's conjecture. The text is corrupt, and the sense is as bad as the text. "Qui usque ad haec loca in hac quoque oratione nihil vidit nisi rectum et sanum, ejus stomachum etiam has extremas feces perferre patique non dubito" (Wolf).

Atque in officio . . . dissolvit.] Halm incloses all this in [ ]. Wolf has observed that this is taken from the oration Pro Plancio, c. 28, with a few alterations. It appears also in the De Officiis, ii. c. 20: "Commode autem quicunque dixit: Pecuniam qui habeat, non reddidisse," &c. The words in the text are omitted in some of the worse MSS. Wolf observes that there is a false construction here, for 'in officio persolvendo' should be 'officii persolvendi . . . et pecuniae.' See Gellius, i. 4, who quotes the passage from the Pro Plancio: "Quamquam dissimilis est pecuniae debitio et gratiae."

persolvendo dissimilis est ratio pecuniae debitae; propterea quod pecuniam qui retinet non dissolvit; qui reddidit, non habet: gratiam et qui rettulit habet, et qui habet dissolvit. X. Quapropter memoriam vestri beneficii colam benevolentia sempiterna, non solum dum anima spirabo mea, sed etiam cum mortuo monumenta vestri in me beneficii permanebunt. In referenda autem gratia hoc vobis repromitto semperque praestabo, mihi neque in consiliis de re publica capiendis diligentiam, neque in periculis a re publica propulsandis animum, neque in sententia simpliciter ferenda fidem, neque in hominum voluntatibus pro re publica laedendis libertatem, nec in perferendo labore industriam, nec in vestris commodis augendis gratam animi benevolentiam defuturam. Atque haec cura, Quirites, erit infixa animo meo sempiterna, ut quum vobis, qui apud me deorum immortalium vim et numen tenetis, tum posteris vestris cunctisque gentibus dignissimus ea civitate videar, quae suam dignitatem non posse se tenere, nisi me recuperasset, cunctis suffragiis judicavit.

10. *non solum dum*] It is difficult to know what to do with this. Halm has restored the passage from Mamertinus' Gratiarum Actio, c. 32; and he has printed it thus: "*neque solum me vivo*, sed etiam, cum *anima defecerit mea* multa monumenta," &c. Mommsen proposes: "Quapropter . . . sempiterna, [neque solum] cum anima spirabo mea, sed etiam cum [ea defecerit] multa monumenta . . . permanebunt." One object of the critical art is to discover what is the original text. If either of these critics has discovered it, the author is still chargeable with absurdity.

ferenda fidem,] The editions formerly had 'referenda fidem,' which could not be easily explained, and accordingly it was proposed to write 'ferenda,' and this is the reading of P. G. E. V., of some other MSS., and of Mamertinus, who in his address to the emperor Julian has imitated and closely followed the conclusion of this oration. It was just the thing for the times.

INTRODUCTION

TO THE

ORATIO DE DOMO.

DURING his tribuneship Clodius had consecrated the ground on which Cicero's house stood, or set it apart to religious uses, a thing which had been done with the ground on which stood the houses of Sp. Cassius, Sp. Maelius, and others (Livy, ii. 41; iv. 16). Cicero did not consider himself fully reinstated in his former condition, unless the ground was restored to him (Ad Att. iii. 20); Letter to Terentia, Ad Fam. xiv. 2: "Quod de domo scribis, hoc est, de area, ego vero tum denique mihi videbor restitutus, si illa nobis erit restituta"). After his return, and at the end of September B.C. 57, he made a great effort to get this act of consecration annulled by the authority of the Senate. The matter was referred by the Senate to the College of Pontifices, and Cicero made an elaborate speech before them on the matter, as he says in a letter to Atticus (iv. 2) on the last day of September. Cicero's friend M. Calidius also delivered a speech on Cicero's side (Quintilian, x. 1, 23): "Quinetiam easdem causas ut quisque egerit utile erit scire, nam pro domo Ciceronis dixit Calidius." The Pontifices gave a judgment in terms which Cicero's friends considered to be a decision in his favour; but Clodius having obtained permission from his brother Appius, who was praetor, to address the people, told them that the Pontifices had given judgment in his favour; that Cicero was going to take forcible possession of the ground; and he urged them to follow him and Appius to the place and defend the Atrium of Libertas, which he had erected on the site of Cicero's house. Cicero resolved not to go to the ground until the consuls, pursuant to a S. C., should enter into a contract for rebuilding the Porticus of Catulus, which Clodius had demolished together with Cicero's house. On the second of October the Senate came to this resolution: that the ground on which Cicero's house had stood should be restored to him; that a contract should be made for rebuilding the Porticus of Catulus, the proximity of which

added to the value of Cicero's house. The consuls immediately made a contract for the restoration of the Porticus, and the undertakers, to the great joy of the people, immediately set about demolishing what Clodius had built.

These facts are told in a letter to Atticus (iv. 2), in the oration against Piso, c. 22; and by Dion Cassius (39. c. 11), who says (c. 9) that Cicero after his return thanked the Senate and the people, and proposed the office of looking after the corn being intrusted to Pompeius: he then continues (c. 11): Cicero accordingly again recovered his power, and not only the rest of his property, but the ground on which his house had stood, though it had been dedicated to Libertas and consecrated: for Cicero attacked the Lex Curiata by which Clodius had been adopted into a plebeian family, on this ground, that it had not been promulgated for a 'trinundinum,' as custom required, and accordingly he invalidated all the tribunate of Clodius in which he had acted with respect to Cicero's house, for he argued that nothing could be legally done by a tribune who had been illegally adopted into a plebeian family; and so he induced the Pontifices to decide that the site of his house should be restored to him free from all religion. Thus Cicero got the site of his house and money for rebuilding it, and for restoring the rest of his property to which damage had been done.

Cicero says to Atticus (iv. 2) about the oration De Domo: "Diximus apud pontifices pridie Kal. Octobres. Acta res est accurate a nobis: et si umquam in dicendo fuimus aliquid, aut etiam si numquam alias fuimus, tum profecto doloris magnitudo vim quandam nobis dicendi dedit. Itaque oratio juventuti nostrae deberi non potest, quam tibi, etiam si non desideras, tamen mittam cito." Many learned men have thought, and some editors of Cicero still think, that this long, rambling, feeble, tasteless production which we now have under the name of Pro Domo or De Domo, is that which Cicero describes as one of his highest oratorical efforts. Seb. Corradus, a scholar and a man of sense too, quoted by Wolf, declares it to be 'prope omnium pulcherrimam.' But a better judge says that one cannot imagine any thing more barren, insipid, and stale, unless it be the oration De Haruspicum Responsis (Markland); which is a just judgment. The Declamator put all his strength in the last, and there he has surpassed himself.

It is difficult, says Wolf, to give a summary of this speech on account of the wonderful variety of things in it and the want of order. Manutius distributes the matter thus. In the first part the orator replies to Clodius, who had found fault before the Pontifices with what Cicero had said in the Senate about setting Pompeius over the Res Frumentaria. In the second part, he shows that according to the Law of

Rome, no citizen can be driven from the city nor any thing done against his 'caput' and property without the judgment of the Senate, or of the Populus, or of those who are appointed Judices in each case. He also shows why the tribunate of Clodius was no tribunate, his adoption not having been made in legal form. In the third part he says that even if Clodius was legally elected a tribune, he could not propose a Lex to affect the 'caput' of a citizen who was not condemned, for that would be a Privilegium which the Twelve Tables forbid. And this was not the whole of the illegal proceedings, for Clodius had proposed and carried a Lex which touched the 'caput' and the property of a man who had neither been summoned to appear nor had been prosecuted. He shows also that the terms of the Lex were faulty, being these: "Velitis, jubeatis, Quirites, ut M. Tullio aqua et igni Interdictum Sit," instead of the verb being in the present tense 'Interdicatur.' The charge also against Cicero with respect to a S. C. was false: "Falsum S. C. ab eo relatum esse;" and the Senate admitted the charge to be false by having restored Cicero.

In the fourth part he refutes the abuse of Clodius, who had called Cicero Exsul, for the name could not be applied to him either in respect of any offence that he had committed, or because of a condemnation. The unanimous consent of all classes by virtue of which Cicero had been restored was a proof that he had done his country service, and had done no wrong. He could not be called Exsul on the ground of a condemnation, for he left Rome untouched and uncondemned; there was no notice to him of any prosecution; and a Roman could not lose either his liberty or his citizenship except by his own act. Further, in the Rogatio of Clodius, there was nothing that deprived Cicero of his Senatorial rank, and the Rogatio of Clodius was not carried by the votes of the Populus, but by a rabble of hired slaves, criminals and needy people. In the fifth part he answers Clodius' charges against him of boasting of his services to the State; and he answers those who made his leaving Rome a ground of charge against him. In the sixth place he shows how Clodius had acted contrary to all justice and all regard to religious ceremonial in the dedication of the ground on which Cicero's house stood. The dedication is proved to be irregular by the fact that the College of Pontifices was not present, but one Pontifex only, an 'affinis' of Clodius, a young man of no experience, induced by his sister's prayers, and his mother's threats, and that he performed the ceremony in a disordered state of mind and with faltering tongue. In the seventh and last place the orator appeals to Jupiter and the other gods, and prays that if he had saved their temples from ruin, and in defence of their sanctity had exposed himself to the fury of abandoned citizens, they will permit him to be reinstated in the possession of the

ground on which his house stood; and in like terms he intreats the Pontifices to restore him to the possession of his house as he had been restored to his country.

Ferratius adds to these an eighth part, the most weighty of all (c. 49), which is this: that the consecration or dedication of Cicero's house was made contrary to an old Lex Papiria, which provided, "Ne quis injussu plebis aedes, terram, aram consecraret;" and as Clodius had not proposed a Rogatio to the Populus about the consecration of Cicero's house, the consecration was illegally made. Ferratius thinks that this was the only argument which could move the Pontifices to decide in favour of Cicero; and a passage in the letter to Atticus (iv. 2) supports this opinion. The passage is this: "Quum pontifices decressent ita, Si neque populi jussu neque plebis scitu, is qui se dedicasse diceret, nominatim ei rei praefectus esset, neque populi jussu aut plebis scitu id facere jussus esset, videri posse sine religione eam partem areae mi restitui—mihi facta statim est gratulatio, nemo enim dubitabat quin domus nobis esset adjudicata."

Wolf thought it best to add the remarks of Ferratius, which I have copied from him and in the original Latin, as a specimen of the good sense and easy style of one of the old commentators.

"Interpretes in enumerandis argumentis omittunt illud, quod praecipuum est; quodque unum maxime Pontifices movit, ut ipsi causam adjudicarent. Domus, inquiunt, consecrationem explodit, quia Clodius neque jure adoptatus fuerat, neque Tribunus pl. esse potuerat. Audio: hoc vero semel admisso jam et leges de Consulum provinciis, de Byzantinis, frumentariam, de Catonis in Cyprum expeditione, omnia denique ipsius acta rescindi oportebat. Haec tamen valebant et rata erant: nam, referente Plutarcho in Cic. c. 34, Ciceronem tabulas disjicere cupientem in quibus Clodii rogationes scriptae servabantur, Cato prohibuit, tum ne, quae ipse in Cypro gesserat, irrita judicarentur, tum etiam, quod jure ac salvis auspiciis de iis omnibus latum fuisse contenderet. Atque adeo, quum cetera probarent, hanc unam legis particulam de consecratione domus eo nomine, quod non fuerit legitima adoptio, privato consilio abrogare Pontifices non poterant. Secundo loco subjiciunt commentatores: tulerat de Cicerone Clodius per vim et contra leges, ac proinde per se irrita rogatio erat. Fac, non mentiri oratorem: sed in primis, ex tot illius legibus an ea tantum per vim et contra leges lata fuerat? nonne aliae multae eodem modo? Cur, si omnium eadem conditio est, non de omnibus pariter idem debet esse judicium? Deinde quod Cicero sine teste, sine tabulis ac literis, denique extra causam dicebat in hominem inimicum, nequaquam tantum ponderis apud sapientissimos viros habebat, ut de religione temere judicarent. Postremo, utcunque lex aliqua lata esset, non poterat a judicibus vel a collegio Pon-

tificum abrogari. Hoc judicium ad Senatum spectabat, qui de abrogandis legibus decernebat, in quibus aliquid peccatum fuisset. Tertio, argumentum ab adjunctis desumptum debile atque infirmum est. An impietas Clodii dedicantis impedimento erat, ne rata putaretur dedicatio? At de sacris Bonae Deae pollutis absolutus fuerat judicio publico, et in dedicando rite omnia peregerat. An sanctitas et religio cujuslibet privatae domus? At Fulvii Flacci aliorumque aedes dedicatae videbantur. An adolescentia Pontificis, quem in dedicatione adhibuerat? At eum populus comitiis tributis creaverat, et collegium cooptaverat. An, quia consecratio facta in perniciem civium nulla est, nulla quoque erit dedicatio? At Cicero non erat civis incolumis, lege Clodia pulsus in exsilium: si non fuisset exsul, frustra consules ex S. C. centuriatis comitiis de illo in patriam restituendo tulissent."

Wolf remarks that this may be considered as said not only against the commentators, but against the writer of this speech. And the remark is just; for it is not easy to believe that Cicero should have spoken of such a speech as this as one of his best; a speech in which it is so difficult to discover the chief argument, and in which so much is said that is easily answered or refuted, and so much which is totally unconnected with the case.

This oration is edited by Baiter in the second edition of Orelli's Cicero. The following are the MSS. abbreviations :—

P = Cod. Parisiensis num. 7794 ab Halmio collatus.

G = Cod. Gemblacensis, nunc Bruxellensis num. 5345, a me collatus.

M = Cod. Mediceus Plut. xlviii. cod. 8, post Lagomarsinium, qui eum numero 8 signavit, ab Henr. Schaeppio collatus.

V = Cod. Vaticanus num. 1525, Palatinus nonus Gruteri, a Tychone Mommsenio collatus.

C = Codices nostri omnes.

The title of the oration is De Domo sua, in P., Priscianus, Arusianus Messius, Servius, Grillius; De domo sua contra Clodium, in Aquila Romanus; De Domo sua apud Pontifices, in Rufinianus; Pro Domo sua ad Pontifices, in M.: In Clodium, G. V. The best title is In Clodium, for the abuse of Clodius is the chief thing in it.

I have given the substance of some of Klotz's notes on this oration. He has said more on it than on the two orations Quum Senatui, and Quum Populo; and some of his remarks may be useful. I have given his meaning as well as I could, wherever I have thought that he explained a difficulty; and sometimes for another reason.

Though I think that this oration is a miserable piece of composition, a student who is well acquainted with Cicero may find it worth reading. His critical faculty may be awakened or sharpened by comparing it with the genuine orations, and by weighing the objections made against it and the answers to the objections. I have said a great deal against it, but not all that can be said.

M. TULLII CICERONIS

DE DOMO SUA

ORATIO

AD PONTIFICES.

I. Quum multa divinitus, pontifices, a majoribus nostris inventa atque instituta sunt, tum nihil praeclarius quam quod eosdem et religionibus deorum immortalium et summae rei publicae praeesse voluerunt, ut amplissimi et clarissimi cives rem publicam bene gerendo, religionibus religiones sapienter interpretando rem publicam conservarent. Quod si ullo tempore magna caussa in

1. *Quum multa . . . conservarent.*] The reading which Wolf and others have is this: 'gerendo, pontifices religiones sapienter interpretando.' C. has 'gerendo religiones religionibus sapienter,' which is corrupt. Halm has made out of it 'gerendo religiones, religionum jus sapienter,' comparing 'jus religionum' (c. 2). This is ingenious, and Baiter accepts it. Klotz corrects or rather alters it thus, 'gerendo religiones, pontifices religiones sapienter.' Wolf says he has no doubt that this is the meaning: "Praeclare instituerunt majores nostri, ut Pontifices nunquam non simul sint Senatores, ita ut iidem, duplicem personam sustinentes, partim sententiis dicendis, partim religionibus interpretandis, rei publicae utilitati consulant." Wolf observes that it is a false assertion that no man except a senator could be a Pontifex, or, as it is also said, that only men of senatorian rank could be elected to this priesthood. Cicero says (Ad Att. iv. 2): "Habetur frequens Senatus; adhibentur Pontifices omnes, qui erant Senatores:" and the same thing is said De Harusp. c. 7. Klotz denies that there is any contradiction between this passage and that from the letter to Atticus and the passage in the De Haruspicum. He affirms that the writer does not say that all who were not senators were excluded from the Pontificate, but that it is a good thing that they, in the majority, not exactly all, should be at the same time senators and priests, and that this union of two offices in the same persons was not prevented by the old constitution, but allowed, and perhaps found in many respects desirable or even fixed by rule.—But this is a false exposition, a perversion of the meaning. He addresses the Pontifices, and says that it was the will of our ancestors that the same persons should have the care of religion and of the state. If there had been no college of Pontifices, we should conclude that the senate had the care of religion. As there was a college of Pontifices smaller in number than the senate, we conclude that every Pontifex was a senator, or what is the same thing, only a senator could be a Pontifex. This is what he says; and it is false. Klotz's emendation does not alter this fact; and his emendation is bad in all respects.

There is a list of the Pontifices in the De Haruspicum Responsis, c. 6. The Pontifex Maximus, C. Julius Caesar, was absent in Gallia, where he had been cutting the Nervii to pieces this year (B.C. 57), and selling fifty thousand prisoners of the Aduatuci, a people of Belgium (B. G. lib. ii.).

sacerdotum populi Romani judicio ac potestate versata est, haec profecto tanta est, ut omnis rei publicae dignitas, omnium civium salus, vita, libertas, arae, foci, dii penates, bona, fortunae, domicilia, vestrae sapientiae, fidei, potestati commissa creditaque esse videantur. Vobis hodierno die constituendum est, utrum posthac amentes ac perditos magistratus improborum ac sceleratorum civium praesidio nudare, an etiam deorum immortalium religione armare malitis. Nam si illa labes ac flamma rei publicae suum illum pestiferum et funestum tribunatum, quem aequitate humana tueri non potest, divina religione defenderit, aliae caerimoniae nobis erunt, alii antistites deorum immortalium, alii interpretes religionum requirendi. Sin autem vestra auctoritate sapientiaque, pontifices, ea quae furore improborum re publica ab aliis oppressa, ab aliis deserta, ab aliis prodita, gesta sunt rescinduntur, erit caussa cur consilium majorum in amplissimis viris ad sacerdotia deligendis jure ac merito laudare possimus. Sed quoniam ille demens, si ea, quae per hos dies ego in senatu de re publica sensi, vituperasset, aliquem se aditum ad aures vestras esse habiturum putavit, omittam ordinem dicendi meum: respondebo hominis furiosi non orationi, qua ille uti non potest, sed convicio, cujus exercitationem quum intolerabili petulantia, tum etiam diuturna impunitate munivit.

II. Ac primum illud a te, homine vesano ac furioso, requiro, quae te tanta poena tuorum scelerum flagitiorumque vexet, ut hos tales viros, qui non solum consiliis suis, sed etiam specie ipsa et dignitate rem publicam sustinent, quod ego in sententia dicenda salutem civium cum honore Cn. Pompeii conjunxerim, mihi esse iratos, et aliter de summa religione hoc tempore sensuros ac me absente senserint, arbitrere. Fuisti, inquit, tum apud pontifices

illa labes] Clodius, who is often so called.—'per hos dies:' in the days immediately after his return, when he spoke about the price of food (Ad Att. iv. 1).

ordinem dicendi] He says at the end of the next chapter: "Nondum de mea sententia dico." That was his 'ordo' then, which 'ordo' he leaves in order to answer the man's impudence first. Or as Klotz says, "he does not speak of the matter first, but he first speaks in reply to the attacks of Clodius."

exercitationem . . . munivit.] Ernesti and Wolf found this rather obscure. Klotz finds it quite plain; and he explains it thus: "Clodius has found out the way of making sure his practice in abuse by an intolerable audacity, and particularly by long impunity (against any attack), and a punishment which he has long since merited." But this is not the meaning of 'munivit.' Wolf's explanation 'firmavit et acuit' is nearer.

2. *vesano*] 'Vaesano, P.,' Baiter, who refers to Wagner, Orthogr. Vergil. p. 478, &c. Clodius was present, or the writer supposes him to be present.

specie ipsa et dignitate] The reading of M. The common reading is 'specie ipsa dignitatem rei publicae.' But we have still the 'specie ipsa,' whatever it means. "Riderent, puto, pueri puellaeque, si quis de Pontifice novae Romae purpuratisque ejus comitibus dixisset, eos decore corporis vel insignibus sustinere ecclesiae dignitatem" (Wolf).

me absente] This must have been before

superior; sed jam, quoniam te ad populum contulisti, sis inferior necesse est.—Itane vero? Quod in imperita multitudine est vitiosissimum, varietas et inconstantia, et crebra tamquam tempestatum sic sententiarum commutatio, hoc tu ad hos transferas, quos ab inconstantia gravitas, a libidinosa sententia certum et definitum jus religionum, vetustas exemplorum, auctoritas litterarum monumentorumque deterret?—Tune es ille, inquit, quo senatus carere non potuit, quem boni luxerunt, quem res publica desideravit, quo restituto senatus auctoritatem restitutam putabamus, quam primum adveniens prodidisti?—Nondum de mea sententia dico. Impudentiae primum respondebo tuae. III. Hunc igitur, funesta rei publicae pestis, hunc tu civem ferro et armis et exercitus terrore et consulum scelere et audacissimorum hominum minis, servorum delectu, obsessione templorum, occupatione fori, oppressione curiae, domo et patria, ne cum improbis boni ferro dimicarent, cedere curasti, quem a senatu, quem a bonis omnibus, quem a cuncta Italia desideratum, arcessitum, revocatum conservandae rei publicae caussa confiteris?—At enim in senatum venire in Capitolium turbulento illo die non debuisti.—Ego vero neque veni et domo me tenui, quamdiu turbulentum tempus fuit, quum servos tuos a te jam pridem ad bonorum caedem paratos cum illa tua

Cicero's return, but nothing more is known of it. "We must manifestly assume that the affair of Cicero's house must have been already handled in his absence before the Pontifices and in his favour. For the words do not permit us to think of the judgment of the Pontifices, which they had already given in their capacity of senators. Perhaps M. Calidius had spoken at that time, as Garatoni conjectured" (Klotz).—'Fuisti . . . necesse est.' Nothing could be more mean and miserable than this: "You were superior with the Pontifices before; but now since you have passed to the popular side, you must of necessity be inferior." This feeble antithesis is a characteristic of these spurious speeches. Cicero had spoken in the Senate about conferring on Pompeius the care of the Res Frumentaria, and a S. C. had been made as he proposed. Cicero in doing this had done what the people wished, and the Pontifices would therefore be unfavourable to him; as Clodius is supposed to say.

vetustas exemplorum,] 'Exemplorum vetustas' occurs in the oration Pro Archia, c. 6.—'Nondum de mea sententia:' Klotz says that these words do not refer to 'omittam ordinem dicendi meum,' c. 1, but Cicero makes two subdivisions in the answer to Clodius' attack which he had already promised to make (respondebo hominis furiosi non orationi).

3. *exercitus terrore*] The army of Caesar, which was at the gates, as Manutius says. But see the oration Quum Senatui, c. 13. It is the false statement repeated. The vile consuls are those with whom we are now very familiar, Piso and Gabinius.

servorum delectu,] Baiter has 'dilectu,' following P. G. V has 'delectu.' This variation is common. The 'obsessio templorum' applies to Castor's only. Wolf observes that 'oppressione curiae' is not Ciceronian. Markland takes notice of the strange expression 'cedere curasti;' for if it is Latin, it is still most absurd to say 'cedere curavit' instead of 'coegit.' Baiter has boldly taken Lambinus' emendation 'cedere coegisti,' for which there is not the slightest authority. This is not editing an author, but altering him.

turbulento illo die] This was the day when the people were rioting on account of the price of bread (Ad Att. iv. 1).—'in Capitolium intrare turbulento:' in some eds.

consceleratorum ac perditorum manu armatos in Capitolium tecum venisse constabat; quod quum mihi nuntiaretur, scio me domi mansisse et tibi et gladiatoribus tuis instaurandae caedis potestatem non fecisse. Posteaquam mihi nuntiatum est populum Romanum in Capitolium propter metum atque inopiam rei frumentariae convenisse, ministros autem scelerum tuorum perterritos, partim amissis gladiis, partim ereptis diffugisse, veni non solum sine ullis copiis ac manu, verum etiam cum paucis amicis. An ego, quum P. Lentulus consul, optime de me ac de re publica meritus, quum Q. Metellus, qui, quum meus inimicus esset, frater tuus, et dissensioni nostrae et precibus tuis salutem ac dignitatem meam praetulisset, me arcesserent in senatum, quum tanta multitudo civium tam recenti officio suo me ad referendam gratiam nominatim vocaret, non venirem, quum praesertim te jam illinc cum tua fugitivorum manu discessisse constaret? Hic tu me etiam custodem defensoremque Capitolii templorumque omnium, hostem Capitolinum appellare ausus es, quod, quum in Capitolio senatum duo consules haberent, eo venirem? Utrum est tempus aliquod quo in senatum venisse turpe sit, an ea res erat illa de qua agebatur, ut rem ipsam repudiare et eos qui agebant condemnare deberem? IV. Primum dico senatoris esse boni semper in senatum venire, nec cum iis sentio, qui statuunt minus bonis temporibus in senatum ipsi non venire, non intelligentes hanc suam nimiam perseverantiam vehementer iis, quorum animum offendere voluerint, gratam et jucundam fuisse.—At enim nonnulli propter timorem,

scio me] This 'scio' offended Wolf. It is flat and silly no doubt. He says that he sometimes thought of writing 'scito,' but he did not set much value on the conjecture; by which I suppose he meant that it did not mend the matter much. But Lagom. 9 has 'scito;' and Baiter has printed 'scito.'

amissis ... ereptis] This is curious. They lost their swords, and those who did not lose them had them taken away; probably by those who had no swords. Again: "Cicero came not only without any force and body of men, but even—with a few friends." A man who writes in this way does not know what he is talking about. See the oration Quum Senatui, c. 5.

frater tuus,] Q. Metellus Nepos, Clodius' cousin (Quum Senatui, c. 10). It was not unusual to call a cousin a brother.

tam recenti officio] The people had just conferred a great favour on him by recalling him by their votes. Ernesti, as Wolf observes, saw that 'officio' was not the word, and he put 'beneficio' in its place; but this is a way of dealing with a text that cannot be approved.

venisse turpe sit,] It should be 'venire,' says Wolf, as Garatoni had also thought. Baiter prints 'venire,' but all the MSS. which he cites have 'venistis' or 'venisse.' —'an ea res erat illa:' Halm, followed by Baiter. The readings are corrupt here.

4. *ipsi non venire,*] 'ipsi non venirent,' Baiter. Something is wrong here.—'quorum animum . . . voluerint:' V. has 'voluerunt.' We may guess what he means; but it would have been plainer if he had said 'noluerunt.'

nonnulli propter timorem,] These were all the consulares except Messala and Afranius (Klotz); which is exactly what Hotmann and Manutius say. See the note on 'quam populi sermo' in this chapter.

quod se in senatu tuto non esse arbitrabantur, discesserunt.—Non reprehendo, nec quaero, fueritne aliquid pertimescendum. Puto suo quemque arbitratu timere oportere. Cur ego non timuerim quaeris? quia te illinc abiisse constabat. Cur, quum viri boni nonnulli putarint tuto se in senatu esse non posse, ego non idem senserim? Cur, quum ego me sensissem tuto omnino in civitate esse non posse, illi senserunt? An eis licet et recte licet in meo metu sibi nihil timere; mihi uni necesse erit et meam et aliorum vicem pertimescere?

An quia non condemnavi sententia mea duo consules sum reprehendendus? Eos igitur ego potissimum damnare debui, quorum lege perfectum est ne ego indemnatus atque optime de re publica meritus damnatorum poenam sustinerem? Quorum etiam delicta propter eorum egregiam in me conservando voluntatem non modo me, sed omnes bonos ferre oporteret, eorum optimum consilium ego potissimum, per eos in meam pristinam dignitatem restitutus, meo consilio repudiarem? At quam sententiam dixi? Primum eam quam populi sermo in animis nostris jam ante defixerat; deinde eam quae erat superioribus diebus agitata in senatu; deinde eam quam senatus frequens tum quum mihi est assensus secutus est; ut neque allata sit a me res inopinata ac recens, nec, si quod in sententia vitium est, magis sit ejus qui dixerit quam omnium qui probarint.—At enim liberum senatus judicium propter metum non fuit.—Si timuisse eos facis qui discesserunt, concede non timuisse eos qui remanserunt. Sin autem sine iis, qui tum afuerunt, nihil decerni libere potuit, quum omnes adessent, coeptum est referri de inducendo senatusconsulto: ab universo senatu reclamatum est. V. Sed quaero in ipsa sententia, quoniam princeps ego sum ejus atque auctor, quid reprehendatur. Utrum caussa

illi senserunt?] G. M. V. Wolf has the reading 'illuc non irem,' which he could not understand; and no wonder. He preferred 'illi non item,' which Manutius found in an ancient MS. of Bargaeus. But now we have another reading from G. M. V.

non condemnavi] "Scil. dicenda sententia, quae ipsorum consulum consiliis responderet. Hoc saltem intelligi potest: etsi rei parum accommodata sunt verba *condemnare* et *damnare*. Nimirum orator antitheton minatur: *ne ego indemnatus—damnatorum poenam sustinerem*. Eadem venustate scripsit deinde: 'eorum consilium ego consilio repudiarem meo'" (Wolf).—The consuls 'quorum lege' he was restored were Lentulus and Metellus.

quam populi sermo] In his speech on the 'annona' he only said what the people wished. Cicero (Ad Att. iv. 1): "quum per eos dies senatus de annona haberetur et ad ejus procurationem sermone non solum plebis, verum etiam bonorum Pompeius vocaretur idque ipse cuperet, multitudoque a me nominatim ut id decernerem postularet, feci, et accurate sententiam dixi, quum abessent consulares, quod tuto se negarent posse sententiam dicere, praeter Messalam et Afranium."—'animis nostris,' P. G. M.; 'animis vestris,' V.—'deinde eam quam:' 'denique eam quam,' Halm, Baiter.

novi consilii capiendi non fuit, an meae partes in ea caussa non praecipuae fuerunt, an alio potius confugiendum fuit? Quae caussa major quam fames esse potuit, quam seditio, quam consilia tua tuorumque, qui facultate oblata ad imperitorum animos incitandos renovaturum te tua illis funesta latrocinia ob annonae caussam putavisti? Frumentum provinciae frumentariae partim non habebant, partim in alias terras, credo, propter varietatem venditorum miserant, partim, quo gratius esset tum quum in ipsa fame subvenissent, custodiis suis clausum continebant, ut subito novum mitterent. Res erat non in opinione dubia, sed in praesentia atque ante oculos proposito periculo; neque id conjectura prospiciebamus, sed jam experti videbamus. Nam quum ingravesceret annona, ut jam plane inopia ac fames, non caritas timeretur, concursus est ad templum Concordiae factus, senatum illuc vocante Metello consule. Qui si verus fuit ex dolore hominum et fame, certe consules caussam suscipere, certe senatus aliquid consilii capere potuit. Sin caussa fuit annona, seditionis quidem instimulator et concitator tu fuisti, nonne id agendum nobis omnibus fuit ut materiem subtraheremus furori tuo? Quid, si utrumque fuit, ut et fames stimularet homines, et tu in hoc ulcere tamquam inguen exsisteres, nonne fuit eo major adhibenda medicina, quae et illud nativum et hoc delatum malum sanare posset? Erat igitur et praesens caritas et futura

5. *putavisti?*] Baiter from Francianus primus. P. M. V. have 'putavit?'

provinciae frumentariae] G. has 'provintiae,' and this orthography might be properly restored. It often occurs in the MSS., and has been corrupted into 'provinciae' by the editors. 'Provintia' points to the real and complete form of the word, 'Providentia.' Among the Provinciae frumentariae were Sicily and Sardinia, and the Provincia Africa.

No one has yet explained 'varietatem venditorum.' Graevius conjectured 'avaritiam venditorum.' "Frumentum clausum continebant, ut sub novum mitterent," Arusianus Messius v. *sub*, p. 261. ed. Lindem. Here we have the feeble words 'custodiis suis' omitted; and for the unmeaning word 'subito' we have 'sub.' But 'sub novum,' is it Latin?

in praesentia] 'in praesenti' Baiter, who only cites Manutius as authority for it.

Concordiae] He has said that they flocked to the Capitolium (c. 3), and he says so in c. 7, and that the Senate met there. Cicero (Ad Att. iv. 1) says: "Eo biduo quum esset annonae summa caritas, et homines ad theatrum primo, deinde ad senatum concurrissent impulsu Clodii, mea opera frumenti inopiam esse clamarent." Klotz says that we must not find any difficulty about the different places where the Senate now met, for they often changed the place.

Qui si verus] This must be a 'verus concursus;' but it is a loose expression. It seems to mean, 'if it really arose from men's sufferings and hunger.'

Sin caussa] Some editions have 'in caussa' or 'in causa;' but 'in' is said not to be in the MSS.; and it is easy to see how it may have been introduced into the printed books. 'Sin caussa' means if the 'annona' was the pretext for the tumultuous assembling of the people.

hoc ulcere . . . inguen] It is doubtful if we should read 'viscere' or 'ulcere.' Baiter compares c. 11: "scelere exulceratus." In place of 'inguen' most editions have 'unguis,' but 'inguen' or 'unguen' is the reading of Baiter's MSS. I do not know what the authority is for 'delatum.' C. has 'delictum' which Baiter prints thus '† delictum.' Some MSS. have 'delectum;' but neither word is right.

fames: non est satis: facta lapidatio est. Si ex dolore plebei nullo incitante magnum malum; si P. Clodii impulsu, usitatum hominis facinorosi scelus; si utrumque, ut et res esset ea quae sua sponte multitudinis animos incitaret, et parati atque armati seditionis duces, videturne ipsa res publica et consulis auxilium implorasse et senatus fidem? Atquin utrumque fuisse perspicuum est, difficultatem annonae summamque inopiam rei frumentariae, ut homines non jam diuturnam caritatem, sed ut famem plane timerent. Nemo negat. Hanc istum otii et pacis hostem caussam arrepturum fuisse ad incendia, caedem, rapinas, nolo, pontifices, suspicemini, nisi videritis. Qui sunt homines a Q. Metello fratre tuo consule in senatu palam nominati, a quibus ille se lapidibus appetitum, etiam percussum esse dixit? L. Sergium et M. Lollium nominavit. Quis est iste Lollius? qui sine ferro ne nunc quidem tecum est; qui te tribuno plebis, nihil de me dicam, sed qui Cn. Pompeium interficiendum depoposcit. Quis est Sergius? armiger Catilinae, stipator tui corporis, signifer seditionis, concitator tabernariorum, damnatus injuriarum, percussor, lapidator, fori depopulator, obsessor curiae. His atque ejusmodi ducibus, quum tu in annonae caritate in consules, in senatum, in bona fortunasque locupletium per caussam inopum atque imperitorum repentinos impetus comparares, quum tibi salus esse in otio nulla posset, quum desperatis ducibus decuriatos ac descriptos haberes exercitus perditorum, nonne providendum senatui fuit, ne in hanc tantam materiem seditionis ista funesta fax adhaeresceret?

VI. Fuit igitur caussa capiendi novi consilii. Videte nunc fuerintne partes meae paene praecipuae. Quem tum Sergius ille tuus, quem Lollius, quem ceterae pestes in lapidatione illa nominabant? quem annonam praestare oportere dicebant? nonne me? Quid puerorum illa concursatio nocturna, non a te ipso instituta

Atquin . . . negat.] Baiter points it thus: 'Atquin . . . perspicuum est: difficultatem . . . timerent, nemo negat;' which does not mend it.

qui Cn. Pompeium . . . depoposcit.] Wolf remarks that Cicero forgot to mention this in the oration Pro Milone, c. 14, and also Asconius in his notes there.

concitator tabernariorum,] "The man who stirred up the shopkeepers" to riot; who stirred up the people who used to shut their shops when the riots began to save their property, whose existence depended on keeping quiet. But the writer only heaps words on one another, the more the better for him. So he adds 'damnatus injuriarum;' no great matter in a man who was a 'signifer seditionis,' a 'fori depopulator,' who shut up the 'curia' and, I suppose, those who were in it (Vol. II. Pro Caecina, c. 12, note on 'injuriarum').

6. *puerorum*] The slaves whom Clodius is said to have excited to assemble in the night. In the rest of the sentence I have followed Baiter, who follows Lambinus. Wolf after Ernesti has 'nocturna, tum a te ipso instituta? Me frumentum flagitabant.' Cicero had no 'curatio,' which was the name given to the office of one who was a 'curator,' such as a 'curator viarum,' of

me frumentum flagitabat? Quasi vero ego aut rei frumentariae praefuissem aut compressum aliquod frumentum tenerem, aut in isto genere omnino quidquam aut curatione aut potestate valuissem. Sed homo ad caedem imminens meum nomen operis ediderat, imperitis injecerat. Quum de mea dignitate in templo Jovis Optimi Maximi senatus frequentissimus uno isto dissentiente decrevisset, subito illo ipso die carissimam annonam nec opinata vilitas consecuta est. Erant qui deos immortales, id quod ego sentio, numine suo reditum meum dicerent comprobasse. Nonnulli autem illam rem ad illam rationem conjecturamque revocabant, qui, quod in meo reditu spes otii et concordiae sita videbatur, in discessu autem quotidianus seditionis timor, jam paene belli depulso metu commutatam annonam esse dicebant; quae quia rursus in meo reditu facta erat durior, a me, cujus adventu fore vilitatem boni viri dictitabant, annona flagitabatur. VII. Ego denique non solum ab operis tuis impulsu tuo nominabar, sed etiam depulsis ac dissipatis tuis copiis a populo Romano universo, qui tum in Capitolium convenerat, quum illo die minus valerem, nominatim in senatum vocabar. Veni exspectatus. Multis jam sententiis dictis,

'annona' and other things. 'Potestas' is the authority of a magistratus. Livy (38. c. 35) says: "Et duodecim clypea aerata ab aedilibus curulibus, P. Claudio et Ser. Sulpicio Galba, sunt posita ex pecunia qua frumentarios ob annonam compressam damnarunt." The dealers were liable to a penalty if they did not bring their grain into market.

in templo Jovis] "A little before he named the temple of Concordia" (Hotm.). So it is. In the oration Pro Sestio it is the 'templum Jovis.' The one dissenter was Clodius. The Lex for Cicero's recall was passed on the fourth of August, and immediately after the S. C. Prices, he says, fell immediately; which shows that the dealers had kept their corn back, and that there was some stock on hand. Cicero entered Rome a month later, in September, and prices were high again. Manutius suggests that the great concourse of people to Rome at the 'comitia' had raised the price, which may be so; or there may have been other reasons.

illam rem ad illam rationem] Cicero never wrote this way. Wolf says, he who has accustomed himself to digest any thing in these orations will not find this too hard. Again he observes that the union of 'qui quod ... dicebant' is disagreeable, and that Cicero would have written 'ut ... dicerent' or something of the kind. But we have also 'quae quia,' to which there is no objection in itself, but as a part of this sentence it helps to make it worse. Ernesti wrote 'dictitarant,' for the sake of the Latinity, in which, says Wolf, we see that he was often far more careful than this Rhetorician.

7. *quum ... valerem,*] The feebleness of this is a sample of the general style of the speech. "Finally I was not only named by your hirelings at your instigation (impulsus, he calls it), but even when your rout was driven away and scattered, the whole Roman people who had then assembled at the Capitolium, though on that day I was not quite well (he was of course at home), called me by name to the Senate." If any man who is used to examine the facts that are involved in any statement, will read this carefully, he will see that it is deficient in all the essentials of a plain and veracious narrative. As to his health: "non admodum grave fuisse videtur periculum: alioquin de hac valetudine jam antea dicendi locus fuerat. Sed id membrum bene facit amplificandae periodo" (Wolf).

Multis jam sententiis] C., Baiter. In the editions the 'jam' is generally placed after 'sententiis,' in the wrong place.

rogatus sum sententiam. Dixi rei publicae saluberrimam, mihi necessariam. Petebatur a me frumenti copia, annonae vilitas. Possem aliquid in ea re necne ratio non habebatur. Flagitabar bonorum expostulatione. Improborum convicia sustinere non poteram. Delegavi amico locupletiori, non quo illi ita de me merito onus illud imponerem, succubuissem enim potius ipse, sed quia videbam id quod omnes, quod nos de Cn. Pompeio polliceremur, id illum fide, consilio, virtute, auctoritate, felicitate denique sua facillime perfecturum. Itaque sive hunc dii immortales fructum mei reditus populo Romano tribuunt, ut, quemadmodum discessu meo frugum inopia, fames, vastitas, caedes, incendia, rapinae, scelerum impunitas, fuga, formido, discordia fuisset, sic reditu ubertas agrorum, frugum copia, spes otii, tranquillitas animorum, judicia, leges, concordia populi, senatus auctoritas mecum simul reducta videantur, sive egomet aliquid adventu meo, consilio, auctoritate, diligentia pro tanto beneficio populi Romani praestare debui, praesto, promitto, spondeo. Nihil dico amplius: hoc quod satis est huic tempori dico, rem publicam annonae nomine in id discrimen quo vocabatur non esse venturam.

VIII. Num igitur in hoc officio, quod fuit praecipue meum, sententia mea reprehenditur? Rem maximam fuisse et summi periculi non solum a fame sed etiam a caede, incendiis, vastitate, nemo negat, quum ad caussam caritatis accederet iste speculator communium miseriarum, qui semper in rei publicae malis sceleris

Possem . . . habebatur.] I have followed Baiter here, who has followed 'Garatonius (II) et Klotzius.' This comes as near to the MSS. as any thing that can be proposed, and it is intelligible. In most editions it stands, 'quasi possem aliquid in ea re gerenda: non habebatur;' where the meaning of 'non habebatur' is uncertain. There seems to be no authority for 'quasi.'

Delegavi] He referred the Romans for payment of the demand to one who had more means than himself. This 'delegatio' is the act by which a debtor gives to his creditor a title to demand his debt from a debtor of the man 'qui delegat.' Pompeius owed Cicero a debt. See Pro Fonteio, c. 8, Vol. II. note.

Itaque sive] It is hard to say what he means to affirm in this long sentence. When he left Rome every thing went with him: "Mecum leges, mecum quaestiones . . . mecum etiam frugum ubertas . . . afuerunt" (Quum Senatui, c. 14). Here the 'ubertas agrorum' returned with him, though we know that immediately on his return there was great scarcity. Pompeius was appointed to look after the supplies on the motion of Cicero, who, as the writer has just told us, could do nothing in the difficulty: he transferred the business to the man who could do it, and who would do it, as Cicero assured the Romans. To say then that plenty returned with him, when scarcity awaited him at Rome; to say that his return did that, which he said that he could not do, the burden of which he transferred to another, is most absurd. The critics may torture themselves as they please: they will never make this consistent.

8. *Rem maximam*] I have taken this passage as it stands in Baiter. It is corrupt in the common editions, and absurd: "Rem maximam eripui a peste summi periculi, non solum eam sed etiam vos a caede." The 'res maxima' is the 'annona.' 'A fame' is Halm's correction, partly founded on c. 10: "Impendebat fames, incendia," &c.

sui faces inflammaret: negat oportuisse quidquam uni extra ordinem decerni. Non jam tibi sic respondebo ut ceteris: Cn. Pompeio plurima, periculosissima, maxima mari terraque bella extra ordinem esse commissa, quarum rerum si quem poeniteat, eum victoriae populi Romani [necesse est] poenitere. Non ita tecum ago. Cum his haec a me haberi oratio potest, qui ita disputant, se, si qua res ad unum deferenda sit, ad Cn. Pompeium delaturos potissimum, sed se extra ordinem nihil cuiquam dare; quum Pompeio datum sit, id se pro dignitate hominis ornare ac tueri solere. Horum ego sententiam ne laudem impedior Cn. Pompeii triumphis, quibus ille, quum esset extra ordinem ad patriam defendendam vocatus, auxit nomen populi Romani imperiumque honestavit: constantiam probo, qua mihi quoque utendum fuit, quo ille auctore extra ordinem bellum cum Mithridate Tigraneque gessit. Sed cum illis possum tamen aliquid disputare: tua vero quae tanta impudentia est ut audeas dicere, extra ordinem dari nihil cuiquam oportere? qui, quum lege nefaria Ptolemaeum, regem Cypri, fratrem regis Alexandrini, eodem jure regnantem, caussa incognita publicasses populumque Romanum scelere obligasses; quum in ejus regnum, bona, fortunas patrocinium hujus imperii

[*necesse est*] *poenitere.*] Some MSS. have 'necesse est.' If we can get rid of it, as Baiter does, so much the better. It is said that it is omitted in some MSS.

Cum his haec . . . Sed cum illis] Manutius has given an explanation of all this. It may be left to any reader who can use his judgment, to see what there is in it. Cicero had recommended the conferring of an extraordinary authority on Pompeius for prosecuting the war against Mithridates (De Imp. Cn. Pompeii, Vol. II.).

Ptolemaeum,] The story of this king of Cyprus is told in the oration Pro Sestio, c. 26, where there is also the expression "rex . . . cum bonis omnibus publicaretur." This Ptolemaeus who was in possession of Cyprus, was a brother of Ptolemaeus Auletes. Clodius had been made prisoner by the pirates about nine years before, and Ptolemaeus being asked to contribute towards his ransom, sent two talents, which Clodius was not pleased with, and he took the opportunity of getting Cato sent to Cyprus to seize the island in the name of the Roman people. Cato did not like the mission, but he went. The unfortunate king of Cyprus poisoned himself, and Cato sold his moveables for the best price that he could get (Plutarch, Cato, c. 36). The seizure of Cyprus was one of the most dishonest acts that the Roman state ever committed; and the number of their dishonest acts was not small (Velleius, ii. 45; Dion Cassius, 38. c. 30).

patrocinium] The MSS. reading is 'patrocinium,' the reading of all the MSS. I suppose. '*Latrocinium,* Naugerius,' Baiter, and others. Nägelsbach, quoted by Baiter, proposes 'fortunas, patrimonium, vim hujus imperii,' which is no doubt very good; but that is no reason for accepting the alteration. It has been asked what 'patrocinium hujus imperii' means? It means the 'patronage,' in the Roman sense, of the Roman state; but I do not affirm that there is any sense in it. The 'latrocinium' offends some editors, for it is strange that Cicero should speak thus of Rome, and of Cato her agent. Gruter thought the expression was too hard to be applied to the Senators of Rome, but Wolf removes this difficulty: "Sed parum ille novit hunc Scriptorem, qui dum Clodium insectetur, ne Senatui quidem parcit, nec populo Clodianum scelus probanti, nec Catoni, viro sanctissimo, neque bono usui sermonis." He adds, who ever before said 'homines publicare?' No one, I believe. The expression in the oration Pro Sestio, c. 26 (preceding note), is strange enough, but it may

immisisses, cujus cum patre, avo, majoribus societas nobis et amicitia fuisset, hujus pecuniae deportandae, et, si quis suum defenderet, bello gerendo M. Catonem praefecisti. Dices, quem virum? Sanctissimum, prudentissimum, fortissimum, amicissimum rei publicae, virtute, consilio, ratione vitae mirabili ad laudem et prope singulari. Sed quid ad te, qui negas esse verum quemquam ulli rei publicae extra ordinem praefici? IX. Atque in hoc solum inconstantiam redarguo tuam, qui in ipso Catone, quem tu non pro illius dignitate produxeras, sed pro tuo scelere subduxeras, quem tuis Sergiis, Lolliis, Titiis ceterisque caedis et incendiorum ducibus objeceras, quem carnificem civium, quem indemnatorum necis principem, quem crudelitatis auctorem fuisse dixeras, ad hunc honorem et imperium extra ordinem nominatim rogatione tua detulisti et tanta fuisti intemperantia, ut illius tui sceleris rationem occultare non posses. Litteras in contione recitasti, quas tibi a C. Caesare missas diceres. CAESAR PULCHRO: quum etiam es argumentatus amoris esse hoc signum, quod cognominibus tantum uteretur neque ascriberet, PRO CONSULE aut TRIBUNO PLEBI; deinde gratulari tibi, quod [idem in posterum] M. Catonem a tribunatu tuo removisses, et quod idem in posterum de extraordinariis potestatibus libertatem ademisses; quas aut numquam tibi ille litteras misit, aut, si misit, in contione recitari noluit, aut, sive

be perhaps explained by the context. Klotz thinks that the expression in the Pro Sestio is a complete answer to Wolf's objection.

si quis suum] 'si jus suum,' Halm, Baiter.

9. *qui in ipso Catone,*] The sentence is incomplete. Mommsen proposes 'quid in ipso Catone?' which makes it easier. The opposition of 'produxeras' and 'subduxeras' is in the author's style. 'Produxeras' is intelligible; but the other is not. Manutius says of it: "ne tibi adversaretur in tuo tribunatu." We learn what is meant from the oration Pro Sestio, c. 28: "non illi ornandum M. Catonem, sed relegandum, nec illi committendum illud negotium, sed imponendum putaverunt." He alludes to Cato as one of those who voted for the punishment of the conspirators. The expression 'indĕmnatorum necis principem' is at least not common, if it is Latin. It is not like the other uses of 'princeps' with a genitive.

quod cognominibus] This is Lambinus' correction for the common reading 'quum nominibus;' and the MSS. show that he was right. The omission of the 'nomen' in a letter was a mark of familiarity, as we see from Cicero's letters. The infinitive 'gratulari' is found fault with by Wolf. Perhaps it depends on 'diceres.' Baiter writes 'et quod eidem . . . ademisses,' the conjecture of Ursini and Gulielmius. But what is this 'libertas' which Clodius took away? Markland commends Hotmann for saying that he did not understand it, unless the word 'intercedendi' is supplied or added. Markland observes that this is an imitation of the passage in the Pro Sestio, c. 28: "qui in contione palam dixerint linguam se evellisse M. Catoni, quae semper contra extraordinarias potestates libera fuisset."

Those may believe who choose that Caesar wrote a letter from Gallia to his dear Pulcher. The writer is willing to suppose, and even contends that it was a fiction. But we may go further and suppose that the fiction of the letter is a fiction too. Klotz says: "it is certain that Clodius did every thing at Caesar's instigation, and certain that the letter was genuine which Clodius communicated:" as certain as the genuineness of this oration; but not more certain.—'aut, sive:' 'at, sive,' Baiter.

ille misit, sive tu finxisti, certe consilium tuum de Catonis honore illarum litterarum recitatione patefactum est. Sed omitto Catonem, cujus eximia virtus, dignitas et in eo negotio quod gessit fides et continentia tegere videretur improbitatem et legis et actionis tuae. Quid, homini post homines natos turpissimo, sceleratissimo, contaminatissimo quis illam opimam fertilemque Syriam, quis bellum [cum] pacatissimis gentibus, quis pecuniam ad emendos agros constitutam, ereptam ex sui Caesaris rebus actis, quis imperium infinitum dedit? Cui quidem quum Ciliciam dedisses, mutasti pactionem, et Ciliciam ad praetorem item extra ordinem transtulisti: Gabinio, pretio amplificato, Syriam nominatim dedisti. Quid, homini taeterrimo, crudelissimo, fallacissimo, omnium scelerum libidinumque maculis notatissimo, L. Pisoni, nonne nominatim populos liberos, multis senatusconsultis, etiam recenti lege generi ipsius liberatos, vinctos et constrictos tradidisti? Nonne, quum ab eo merces tui beneficii pretiumque provinciae meo sanguine tibi esset persolutum, tamen aerarium cum eo partitus es? Itane vero? tu provincias consulares, quas C. Gracchus, qui unus maxime popularis fuit, non modo non abstulit a senatu, sed etiam, ut necesse esset quotannis constitui per senatum [decreta] lege

bellum [cum] pacatissimis] Baiter has followed Wesenberg, who adds 'cum.' It is a small addition to make, when we remedy a great defect by it. Gesner thought that it is permitted to add to 'bellum' the case of the verb 'bellare,' and he compares 'obtemperatio legibus,' and other like forms; but Wolf observes that the two things are not alike, for nouns of the neuter gender which have not an active signification cannot be used thus. Besides this, the verb 'bellare' is not used in the way in which Gesner supposes.

ex sui] The reading in the editions is 'vi ex;' but the MSS. have 'ex vi,' out of which Niebuhr ingeniously made 'ex sui.' But 'ereptam ex sui Caesaris rebus actis' is more than we can tolerate even in this writer. He alludes to the 'acta' of Caesar in his consulship, to the measures that he carried for distributing land among the people, and for applying money to the purchase of land for the purpose of assignment. If the money was diverted to another purpose, it would be snatched out of the 'acta' of Caesar, as the writer expresses it.

Ciliciam] This 'sceleratissimus' was to have had the province of Cilicia, but he got Syria by agreeing to betray Cicero (Pro Sestio, c. 10 and 25). He now goes on to another wretch, 'taeterrimus, crudelissimus, fallacissimus,' and something more. What has all this to do with his house? It was more likely to disgust the Pontifices than to strengthen Cicero's case.

recenti lege] A Lex Julia of Caesar, which is spoken of in the oration In Pisonem, c. 16, and in the De Provinc. Consul. c. 4: "Emisti grandi pecunia ut tibi de pecuniis creditis jus in liberos populos contra senatusconsulta et contra legem generi tui dicere liceret." All the MSS. have 'recenti lege soceri.' The correction 'generi' was made by Robortellus (Baiter). We can hardly suppose that the author wrote 'soceri,' though there is no MSS. authority for any thing else.

aerarium] "Foedus fecerunt cum tribuno pl. palam, ut ab eo provincias acciperent quas ipsi vellent; exercitum et pecuniam quantam vellent, ea lege si ipsi prius tribuno pl. afflictam et constrictam rem publicam tradidissent" (Pro Sestio, c. 10); and (c. 24) "partitionem aerarii."

[decreta] lege] 'Decreta' is in the MSS. '*Lege* Hotomanus, *decreta lege* C.' (Baiter.) Hotmann proposed either to erase 'decreta' or to write 'rogata.' 'Decernere legem' is not a Roman expression. The Senate 'decernit:' 'Populus jubet.'

sanxit, eas lege Sempronia per senatum decretas rescidisti, extra ordinem, sine sorte, nominatim dedisti non consulibus, sed rei publicae pestibus; nos, quod nominatim rei maximae, paene jam desperatae, summum virum, saepe ad extrema rei publicae discrimina delectum, praefecimus, a te reprehendemur? X. Quid tandem? si, quae tum in illis rei publicae tenebris caecisque nubibus et procellis, quum senatum a gubernaculis dejecisses, populum e navi exturbasses, ipse archipirata cum grege praedonum impurissimo plenissimis velis navigares, si, quae tum promulgasti, constituisti, promisisti, vendidisti, perferre potuisses, qui locus in orbe terrarum vacuus extraordinariis fascibus atque imperio Clodiano fuisset? Sed excitatus aliquando Cn. Pompeii,—dicam ipso audiente quod sensi et sentio, quoquo animo me auditurus est,—excitatus, inquam, aliquando Cn. Pompeii nimium diu reconditus et penitus abstrusus animi dolor subvenit subito rei publicae, civitatemque fractam malis, mutam ac debilitatam, abjectam metu, ad aliquam spem libertatis et pristinae dignitatis erexit. Hic vir extra ordinem rei frumentariae praeficiendus non fuit? Scilicet tu helluoni spurcatissimo, praegustatori libidinum tuarum, homini egentissimo et facinorosissimo, Sex. Clodio, socio tui sanguinis,

Nor did the Romans say 'provinciam rescindere.' They said 'legem, testamentum rescindere;' and so forth. The Lex Sempronia is the Lex Sempronia de Provinciis.

10. *ipso audiente*] Pompeius was present, as he says, when he was addressing the Pontifices. The original passage in the oration Pro Sestio, c. 31, is in a different style: "Cn. Pompeius . . . excitavit illam suam non sopitam sed suspicione aliqua retardatam consuetudinem rei publicae bene gerendae." Here it is the 'animi dolor,' as Wolf observes, which is 'excitatus,' though the 'animi dolor' had long existed and was no secret; and the 'animi dolor' came all at once to the relief of the state, and raised it up from its fallen condition.

socio tui sanguinis,] Cicero is abusive enough when he speaks of Clodius; but this man goes further of course. The rhetorician is of a forcible feebleness, like many modern speakers. The force of real oratory is not in forcible words. Manutius explains 'socio tui sanguinis' thus, "Qui tibi socius erat in turpi amore sororis tuae," which Graevius approves. Pantagathus would read 'facinoris' for 'sanguinis:' he wished to make the man write Latin and sense. It is uncertain whether 'facinoris' is the invention of Pantagathus, or if he had some MS. authority for it. This Lex of Clodius was a Lex de Annona, of which the Schol. Bob. pro Sestio, p. 301, says: "Ante quidem Gracchus legem tulerat ut populus pro frumento quod sibi publice daretur, in singulos modios senos aeris et trientes exsolveret, sed hic anno suo P. frumentariam legem tulit, ut gratuito populus acciperet." There is more about this in the oration Pro Sestio, c. 25, Ascon. p. 9; in Dion Cassius, 38. c. 13, and in the oration against Piso, c. 4, and the notes of Asconius. If Clodius got a Lex enacted for the gratuitous distribution of corn to the poor, it is rather extravagant to speak of all the keys of the 'horrea' being handed over to this 'helluo.' The 'horrea' were the public granaries, which we find established in all the provinces in the imperial period. They are mentioned in Livy (29. c. 36): "horreaque non solum quae jam facta erant repleta, sed nova aedificata." Remains of some of them exist with an inscription which says what they were. There is one near the ruins of Myra in Lycia, which has an inscription entire beginning "HORREA IMP." (Beaufort, Karamania, p. 27.)

The loss to the public either from selling corn to the poor below its value or from the

qui sua lingua etiam sororem tuam a te abalienavit, omne frumentum privatum et publicum, omnes provincias frumentarias, omnes mancipes, omnes horreorum claves lege tua tradidisti. Qua ex re primum caritas nata est, deinde inopia. Impendebat fames, incendia, caedes, direptio: imminebat tuus furor omnium fortunis et bonis. Queritur etiam importuna pestis ex ore impurissimo Sex. Clodii rem frumentariam esse ereptam, summisque in periculis ejus viri auxilium implorasse rem publicam, a quo saepe se et servatam et amplificatam esse meminisset. Extra ordinem ferri nihil placet Clodio. Quid, de me quod tulisse te dicis, patricida, fratricida, sororicida, nonne extra ordinem tulisti? An de peste civis, quemadmodum omnes jam dii atque homines judicaverunt, conservatoris rei publicae, quemadmodum autem tute ipse confiteris, non modo indemnati, sed ne accusati quidem, licuit tibi ferre non legem, sed nefarium privilegium, lugente senatu, maerentibus bonis omnibus, totius Italiae precibus repudiatis, oppressa captaque re publica; mihi, populo Romano implorante, senatu poscente, temporibus rei publicae flagitantibus, non licuit de salute populi Romani sententiam dicere? Qua quidem in sententia si Cn. Pompeii dignitas aucta est, conjuncta cum utilitate communi, certe laudandus essem, si ejus dignitati suffragatus viderer qui meae saluti opem et auxilium tulisset. XI. Desinant, desinant homines iisdem machinis sperare me restitutum posse labefactari quibus antea stantem perculerunt. Quod enim par amicitiae consularis

gratuitous distribution of it, was made up out of the revenue. In the time of Tiberius, when the price of grain was high, he fixed the price to the purchaser, and promised to give the dealers two 'sestertii' on each 'modius,' from which we conclude that the price which he fixed was below the market price, and the dealers had their loss made up out of the treasury (Tacit. Ann. ii. 87). This is a piece of French management too. Louis Napoleon (1855) deals with the bakers of Paris, fixes the price of their bread, and leaves the good city of Paris to indemnify the bakers. The Lex of Clodius was a pernicious measure, one of the signs of a falling state, as all forced contributions are by which one man is fed at the cost of another.

Quae ex re] Halm, whom Baiter follows, writes 'Qua ex lege.' The correction, I suppose, is founded on a reading 'exige.' It was not the Lex only from which all this came; but it was the 'res.'

ex ore impurissimo] "Libidinum obscoenitatem rursus exprobrans Clodio, non animadvertit, quam absurde in *ore sedeat res frumentaria*" (Wolf). Wolf refers to Asconius in Pison. c. 4, and Dion, 38. c. 13, who speak of P. Clodius' Lex de Annona, but they say nothing of the 'curatio' being given to Sex. Clodius, nor does Cicero mention it. Here there is given to Sex. Clodius 'omne frumentum privatum et publicum,' the corn of the dealers and the corn in the public stock. I have never read of private property being dealt with in this way by the Romans. What can he mean by calling Clodius 'patricida, fratricida, sororicida,' except to overwhelm us with words?

11. *par amicitiae consularis*] This does not look like Latin. Let those decide who can. All this talk of the friendship of Pompeius is tiresome and false. Wolf says "nimirum de Pompeio blaterat quae sublegerat ex Sestio, cc. 18, 31, et Pison. c. 31."—'quis senatui:' 'quis in Senatu, Lagom. et Lambinus,' Baiter, who has 'in

fuit umquam in hac civitate conjunctius quam fuimus inter nos ego et Cn. Pompeius? Quis apud populum Romanum de illius dignitate industrius, quis senatui saepius dixit? Qui tantus fuit labor, quae simultas, quae contentio, quam ego non pro illius dignitate susceperim? Qui ab illo in me honos, quae praedicatio de mea laude, quae remuneratio benevolentiae praetermissa est? Hanc nostram conjunctionem, hanc conspirationem in re publica bene gerenda, hanc jucundissimam vitae atque officiorum omnium societatem certi homines fictis sermonibus et falsis criminibus diremerunt, quum iidem illum, ut me metueret, me caveret monerent, iidem apud me mihi illum uni esse inimicissimum dicerent; ut neque ego ab illo quae mihi petenda essent satis audaciter petere possem, neque ille tot suspicionibus certorum hominum et scelere exulceratus quae meum tempus postularet satis prolixe mihi polliceretur. Data merces est erroris mei magna, pontifices, ut me non solum pigeat stultitiae meae sed etiam pudeat, qui quum me non repentinum aliquod meum tempus, sed veteres multo ante suscepti et provisi labores cum viro fortissimo et clarissimo conjunxissent, sim passus a tali amicitia distrahi, neque intellexerim quibus aut ut apertis inimicis obsisterem, aut ut insidiosis amicis non crederem. Proinde desinant aliquando me iisdem inflare verbis: Quid sibi iste vult? nescit quantum auctoritate valeat, quas res gesserit, qua dignitate sit restitutus: cur ornat eum a quo desertus est?—Ego vero neque me tum desertum puto, sed paene

Senatu.' Markland observes that Cicero might as well have said 'diximus Pontificibus' (Ad Att. iv. 2), instead of 'diximus apud Pontifices,' which he does say. Though we know that it should be 'in senatu,' it is not our business to mend the language of the writer nor to make him speak like a man of sense. Hotmann says that he does not remember an expression like 'quis senatui dixit,' and Markland doubts if any man's memory will be more lucky than Hotmann's. But Klotz has cited an example from Seneca, Controv. Proem.: "Quum per totum annum quinquies sexiesve populo diceret." Wolf makes the right distinction between 'dicere' with a dative, and 'apud populum dicere:' "alterum de familiari sermone usitatum est, alterum de publica oratione."—'industrius:' 'illustrius' is Lambinus' writing, and he is followed by the editors. The MSS. have 'industrius.' But 'illustrius' is by no means an appropriate word. Klotz contends that it is.

fictis sermonibus] The same story is told in the Pro Sestio and in the oration In Pisonem.

prolixe] See Pro Flacco, c. 36.—'data merces est erroris:' 'merces' is here the same as 'poena.' So I suppose 'dare mercedem' is like 'dare poenas.'

inflare verbis:] C., Baiter. The common reading is 'inflammare,' which Wolf prefers.—'paene deditum:' Ursini would write 'plane deditum,' 'vel repugnantibus antiquis libris.' Some MSS. 'teste Lambino' have 'poenae.' But all this trouble is useless. This is one of the author's favourite words. Wolf collects the examples. There is a striking instance in the oration Quum Populo (c. 7), "paene sensit;" and in this oration (c. 6), "videte fueritne partes meae paene praecipuae;" and c. 47, "verbis paene solemnibus." But the great example is "paene ex Acheronte excitatos," Quum Senatui, c. 10. Wolf is right. This word marks the man. (Quum Senatui, c. 15, note.)

deditum; nec quae sint in illa rei publicae flamma gesta contra me, neque quomodo, neque per quos, patefaciundum mihi esse arbitror. Si utile rei publicae fuit haurire me unum pro omnibus illam indignissimam calamitatem, etiam hoc utile est, quorum id scelere conflatum sit me occultare et tacere. Illud vero est hominis ingrati tacere, itaque libentissime praedicabo, Cn. Pompeium studio et auctoritate aeque unum quemque vestrum, opibus, contentione, precibus, periculis denique praecipue pro salute mea laborasse. XII. Hic tuis, P. Lentule, quum tu nihil aliud dies et noctes nisi de salute mea cogitares, consiliis omnibus interfuit; hic tibi gravissimus auctor ad instituendam, fidelissimus socius ad comparandam, fortissimus adjutor ad rem perficiendam fuit; hic municipia coloniasque adiit; hic Italiae totius auxilium cupientis imploravit; hic in senatu princeps sententiae fuit; idemque quum dixisset, tum etiam pro salute mea populum Romanum obsecravit. Quare istam orationem qua es usus omittas licet, post illam sententiam, quam dixeram de annona, pontificum animos esse mutatos; proinde quasi isti aut de Cn. Pompeio aliter atque ego existimo sentiant, aut quid mihi pro exspectatione populi Romani, pro Cn. Pompeii meritis erga me, pro ratione mei temporis faciendum fuerit, ignorent, aut etiam, si cujus forte pontificis animum, quod certo scio aliter esse, mea sententia offendit, alio modo sit constituturus aut de religione pontifex aut de re publica civis quam eum aut caerimoniarum jus aut civitatis salus coegerit.

Intelligo, pontifices, me plura extra caussam dixisse quam aut opinio tulerit aut voluntas mea; sed quum me purgatum vobis esse cuperem, tum etiam vestra in me attente audiendo benignitas provexit orationem meam. Sed hoc compensabo brevitate ejus

aeque] C., 'aeque atque,' Klotz, Baiter. Some have 'aeque ut.'—'idemque quum dixisset:' 'idemque * * * dixisset,' Baiter. The text is uncertain.—'pontifex:' the conjecture of Gulielmius. The MSS. have 'pontifices' or 'pontificum.'—'civis quam eum' is also due to the same critic, for the MSS., some at least, have 'cujusquam meum.' It is a good correction.

12. *Intelligo, pontifices,*] He now comes to the case, after having said more than 'aut opinio tulerit aut voluntas mea.' The author here imitates the Pro Sestio, c. 13: "Etsi me attentissimis animis," &c.; but the difference between the two passages is as great as it can be, where the same thing is said. As to the 'opinio'—"utrum suam an auditorum? Id vero non tacendum erat, etsi posterius significari comiter credimus" (Wolf). All this was 'extra caussam,' as he admits; one fifth of the oration, he says, was nothing to the purpose, a statement which, as Markland observes, does not agree with Cicero's own account of his speech (rem a se accurate actam) in his letter to Atticus. Wolf finds fault with the construction 'quum . . . cuperem,' but I think that it is right. However as to the attention that the Pontifices had paid to this tedious talk, Wolf thinks that we could not believe it, if he had not told us. The brevity by which he promises to make amends is a false promise. He grows longer and more tedious.

orationis, quae pertinet ad ipsam caussam cognitionemque vestram, quae quum sit in jus religionis, et in jus rei publicae distributa, religionis partem, quae multo est verbosior, praetermittens de jure rei publicae dicam. Quid est enim aut tam arrogans quam de religione, de rebus divinis, caerimoniis, sacris pontificum collegium docere conari; aut tam stultum quam, si quis quid in vestris libris invenerit, id narrare vobis; aut tam curiosum quam ea scire velle, de quibus majores nostri vos solos et consuli et scire voluerunt? XIII. Nego potuisse jure publico, legibus iis quibus haec civitas utitur, quemquam civem ulla ejusmodi calamitate affici sine judicio: hoc juris in hac civitate, etiam tum quum reges essent dico fuisse: hoc nobis esse a majoribus traditum; hoc esse denique proprium liberae civitatis, ut nihil de capite civis aut de bonis sine judicio

ad ipsam caussam] 'Caussam' comes from a cod. of Car. Stephanus.

verbosior,] "*At purgatum se volebat.* Gerrae. Aliquoties ipse professus est plane probatam Pontificibus esse suam sententiam; cur ergo purgatum se voluit tantopere? Dissimulat veram causam hujus loquacitatis, ubertatem et facilitatem materiae, in qua sine quarundarum rerum intelligentia declamare licebat: nunc igitur, quum ad ipsam causam pervenit, quam modeste studet brevitati! Nos ceteri contra facimus: ea quae pertinent ad cognitionem causae, majore cura et diligentia tractare solemus. Iste vero secus: compensabit superiores anfractus brevitate ejus orationis, quae pertinet ad summam rei praecipuae; itaque *verbosiorem* partem *de religione*, paene praetermittit, utpote de qua nihil admodum compilandum praebebant Orationes Ciceronis. Id ne ita esset, vel si, ut alibi scribit, (cc. 15, 46, 53) Pontificum et Augurum libros scrutatus esset, non minus fatue, puto nunc narrantem audiremus, quae auditoribus notissima essent, quam fecit in prioribus duabus Oratt. ad Senatum populumque Romanum" (Wolf).

de jure rei publicae] This means, as he tells us in the next chapter, 'de jure publico,' but though the Romans used 'jus' with a genitive in such phrases as 'jus gentium,' 'jus Quiritium,' 'jus sepulcrorum' (the law relating to 'sepulcra'), and even 'jus Pontificum,' though the better expression is 'jus Pontificium,' I am not acquainted with the expression 'jus rei publicae,' signifying 'jus publicum,' and I do not believe that it is Latin. 'Jus religionis' is as good as 'jus belli' which Cicero also uses, and 'jus rei publicae' is an expression formed on the likeness of 'jus religionis,' 'the law that concerns the state as a state,' and 'the law about religion.' It may occur; but I doubt. "Publicum jus est quod statum rei Romanae spectat" (Justin. Inst. i. tit. 1).

13. *sine judicio senatus*] Hotmann thought that this must be supposed to be said of the times before Cicero, but as Markland observes, the writer is speaking of his own times. Markland quotes the orations against Verres (II. 5. c. 48): "Quo confugient socii, quem implorabunt, qua spe denique ut vivere velint tenebuntur, si vos eos deseretis? Ad senatumne venient? Quid ut de Verre supplicium sumat? Non est usitatum, non est senatorium." The passage in Polybius (vi. 13), to which Hotmann refers as evidence of the jurisdiction of the senate in earlier times, is this: *ὁμοίως καὶ ὅσα τῶν ἀδικημάτων τῶν κατ' Ἰταλίαν προσδεῖται δημοσίας ἐπισκέψεως, λέγω δὲ οἷον προδοσίας, συνωμοσίας, φαρμακείας, δολοφονίας, τῇ συγκλήτῳ μέλει περὶ τούτων.* But it is truly observed by Becker (Handbuch, &c. ii. 2. p. 451, note), that in such cases the senate did not form itself into a court, but commissioned members of its body to investigate the matter. The investigation was called a Quaestio. He cites examples from Livy, ix. 26: "quaestiones decretae; dictatoremque quaestionibus exercendis dici placuit;" xxviii. 10: "dictator magistratu abdicato dimissoque exercitu in Etruriam provinciam ex S. C. est profectus ad quaestiones habendas;" xxix. 36: "eodemque tempore M. Cornelius consul, altera parte Italiae, non tam armis quam judiciorum terrore Etruriam continet . . . Eas quaestiones ex S. C. minime ambitiose habuit;" Livy, xxxix. 14: "Quaestionem deinde de Bacchanalibus sacrisque noctur-

senatus aut populi aut eorum qui de quaque re constituti judices sint detrahi possit. Videsne me non radicitus evellere omnes actiones tuas, neque illud agere, quod apertum est, te omnino nihil gessisse jure, non fuisse tribunum plebis hoc dico, esse patricium? Dico apud pontifices: augures adsunt: versor in medio jure publico.

Quod est, pontifices, jus adoptionis? nempe ut is adoptet qui

nis extra ordinem consulibus mandavit." There is little or hardly any evidence that the senate sat as a court for the trial of crimes even in the earlier periods. The Populus was the judge 'de capite civium' in the Centuriata Comitia. The appointment of special commissioners to try crimes was a later practice, and the examples from Livy explain Polybius. The Quaestiones perpetuae, or regular courts for the trial of crimes, were first established by the Lex Calpurnia de rep. B.C. 149. (Vol. I. REPETUNDAE.) The remark in the text would establish an historical error, if we understood it according to the plain meaning of the words; but this is not an argument against the genuineness of the oration, for Cicero himself is often inaccurate in his historical facts.

Klotz says that it was important for Cicero to assert for the senate the power of deciding 'de capite civis;' and he had even put to death the conspirators 'senatus judicio.' "It is true that the opposite party would not admit the competence of the senate in this matter, but Cicero was obliged to mention it for his own sake and also maintain that it was legal." I allow that Cicero might lie and did lie, when nobody or a few only could contradict him; but I cannot be persuaded that he would say what every man who heard him knew to be false. And who ever heard of the conspirators being condemned by a 'judicium' of the senate? This statement is as false as that in the text.

Videsne me . . . patricium?] This passage stands thus in Baiter: "Videsne me radicitus evellere . . . meque illud agere . . . non fuisse tribunum pl., hodie esse patricium?" Lambinus erased the 'non' before 'radicitus;' and for 'neque illud' wrote 'me illud.' As to 'hodie' Baiter says "*hodie* P., *hoc* G., hunc M., om. V., *hoc dico* Orelli." There is a reading 'parricidium' or 'patricidium,' which Baiter does not notice. On 'hoc dico, te esse patricium,' Lambinus says, "Sic est legendum, et ita igitur in libris manuscript. non, ut in vulgatis 'hoc dico esse parricidium.'" Pal. nonus (V.) has 'esse patricium,' omitting 'hoc dico' (Gruter). I suppose that 'hoc dico' is in some MSS. Baiter's text gives a reasonable meaning to the passage; and it agrees with the termination of c. 14.

augures adsunt:] Nobody has yet discovered how the Augurs got here, unless we can find out from c. 15. Were the Augurs present to give judgment in a matter which belonged to the cognizance of the Pontifices, or were most of the Pontifices also Augurs? "Prius falsum, posterius parum verisimile esse, optime ostendit Ferratius. Restat ergo, ut cum hoc viro docto Augures fortuito, non necessario, praesentes putemus, aut ad eam sententiam revertamur, quae tot similibus difficultatibus medetur, ut ista verba—verba esse credamus" (Wolf).—'versor in medio jure publico:' he has this expression (De Or. i. 39) where he is speaking of the case of M. Curius: "in medio jure civili versari." Wolf finds fault with the expression here; but I see nothing in his remark. There is a more weighty objection than this. He is speaking before the Pontifices, in the presence of the Augurs; and 'he is in the very midst of the Jus Publicum;' but it appears from what he goes on to tell us, "quaeri a pontificum collegio solet," that he is in the midst of the 'Jus Pontificium;' and so he says at the beginning of c. 14: "nego istam adoptionem pontificio jure esse factam:" and he repeats it at the end: "contra omne pontificium jus factam." So we learn that 'Jus Publicum' was sometimes equivalent to 'Jus Pontificium.' It is true that 'Jus Pontificium' would be comprehended within the 'Jus Publicum' by force of the definition: "publicum jus est, quod statum rei Romanae spectat," but as a part of the 'Jus Publicum.' Schrader in his note on this passage of the Institutes (i. 1. § 4), says that Cicero, Pro Domo, c. 13, refers 'consecratio' to the 'Jus Publicum.' But this Cicero, whom he cites, does more. He confounds 'Jus Publicum' and 'Jus Pontificium' or 'Pontificum.'

jus adoptionis?] The law relating to adoption is briefly stated by Gaius (i. 98,

neque procreare jam liberos possit, et quum potuerit sit expertus. Quae deinde caussa cuique sit adoptionis, quae ratio generum ac dignitatis, quae sacrorum, quaeri a pontificum collegio solet. Quid est horum in ista adoptione quaesitum? Adoptat annos viginti natus, etiam minor, senatorem. Liberorumne caussa? At procreare potest. Habet uxorem: suscipiet jam liberos. Exheredabit igitur pater filium. Quid, sacra Clodiae gentis cur intereunt quod in te est? quae omnis notio pontificum quum adoptarere esse debuit; nisi forte ex te ita quaesitum est, num perturbare rem publicam seditionibus velles, et ob eam caussam adoptari, non ut ejus filius esses, sed ut tribunus plebis fieres et funditus everteres civitatem. Respondisti, credo, te ita velle. Pontificibus bona caussa visa est: approbaverunt. Non aetas ejus qui adoptabat est quaesita, ut in Cn. Aufidio, M. Pupio, quorum uterque nostra memoria, summa senectute, alter Oresten, alter Pisonem adoptavit; quas adoptiones, sicut alias innumerabiles, hereditates nominis,

&c.). This adoption of Clodius was an 'adrogatio:' "Populi auctoritate adoptamus eos qui sui juris sunt: quae species adoptionis dicitur adrogatio, quia et is qui adoptat rogatur, id est, interrogatur an velit eum quem adoptaturus sit justum sibi filium esse; et is qui adoptatur rogatur an id fieri patiatur, et populus rogatur an id fieri jubeat." The 'adrogatio' was effected by a Lex Curiata, as Cicero says (Pro Sestio, c. 7). There is a chapter in Gellius (v. 19) on adoption. He says of the 'adrogatio:' "sed adrogationes non temere nec inexplorate committuntur. Nam comitia arbitris Pontificibus praebentur, quae Curiata appellantur; aetasque ejus qui adrogare vult, an liberis potius gignendis idonea sit, bonaque ejus qui arrogatur ne insidiose appetita sint consideratur: jusquejurandum a Q. Mucio pontifice maximo conceptum dicitur quod in adrogando juraretur."

suscipiet jam] 'P., *suscipiet ex ea* G. V., *suscipiet ab ea* M.' Baiter. The common reading is 'suscepit etiam.'

Exheredabit igitur . . . filium.] Baiter puts a note of interrogation after it. It is not material. The new father of Clodius will beget children. 'Accordingly the father will exheredate the son,' that is, Clodius. Hotmann takes this to be the answer of Clodius, and 'exheredare' to mean 'emancipare.' He is mistaken in the second part of his supposition at least.

Cicero says, "Well, the 'sacra' of the Clodia gens, why do they perish, so far as is in you?" This is not immediately connected with what precedes: it touches the whole question of adoption.

There are some remarks on the Sacra in the notes to the oration Pro Murena, c. 12. The passages about the Sacra are in Cicero, De Legibus ii. 19, 21. These passages state that the obligation of the Sacra was attached to the property (pecunia), and the maintenance of the Sacra was a duty imposed on the person to whom the property came (sacra cum pecunia conjuncta sunt). The effect of 'adrogatio' was to make the adrogated person the son of the adoptive father, who acquired 'per universitatem' the property of the new child. If Clodius was the last of his gens, the name would have been extinct by his adoption; but I suppose that the obligation of the Sacra would be attached to the property. They perish, says Manutius, because when you are adopted by Fonteius, you pass over to the Sacra of the Fonteia gens. It is true that the adopted son passed into the Familia and Sacra of his new father, but that will not explain why the Sacra of his former gens are lost, if the Sacra are attached to the property.

omnis notio] 'Notio' is the same as 'cognitio' (c. 12), and Cicero has used 'notio' in this way.

Oresten,] Cn. Aufidius Orestes got this name by being adopted by Cn. Aufidius, for before his adoption he belonged to the Gens Aurelia. Orestes was consul B.C. 71, with P. Lentulus Sura.

pecuniae, sacrorum secutae sunt. Tu neque Fonteius es, qui esse debebas, neque patris heres, neque amissis sacris paternis in haec adoptiva venisti. Ita perturbatis sacris, contaminatis gentibus, et quam deseruisti et quam polluisti, jure Quiritium legitimo tutelarum et hereditatum relicto, factus es ejus filius contra fas, cujus per aetatem pater esse potuisti. XIV. Dico apud pontifices: nego istam adoptionem pontificio jure esse factam; primum, quod eae vestrae sint aetates, ut is qui te adoptavit vel filii tibi loco per aetatem esse potuerit, vel eo quo fuit; deinde quod caussa quaeri solet adoptandi, ut et is adoptet, qui quod natura jam assequi non potest legitimo et pontificio jure quaerat, et ita adoptet, ut ne quid aut de dignitate generum aut de sacrorum religione minuatur; illud in primis, ne qua calumnia, ne qua fraus, ne qui dolus

Tu neque Fonteius] If the adoption was invalid, Clodius was not a Fonteius. We can admit that; but the writer is not satisfied with so little. He adds 'neque patris heres.' He was not the 'heres' of his natural father: the act of adoption, we are told, had no effect except to make him not the 'heres' of his natural father. It is impossible to deal with a writer who does not know what he is talking about. We may allow him the expression 'patris heres.' He adds, "you have lost your 'sacra paterna,' and have not come into the 'sacra adoptiva.'" Clodius made an unlucky business of it. He got nothing and lost all. But this is only by way of introduction to the piece of bombast which follows. He ends with saying that Clodius had become Fonteius' son, only it was 'contra fas.' 'Factus es ejus filius.' Could the writer tell us whether he means to say that Clodius did become the son of Fonteius or not? And if he did not, because the adoption was illegal, did he cease to be who he was? An illegal adoption would have no effect. When Clodius was adopted (adrogatus) he was 'sui juris,' as the form of adoption implies. Besides this, his father had long been dead. It is true that he could be called the 'heres' of his father at any time after his father's death, and of course even now. But what have we to do with Clodius being the 'heres' of his father, when the only matter in question was the 'sacra,' and that matter has been mentioned once, and is mentioned again (amissis sacris paternis)?

14. *vel filii*] 'Loco patris vel filii,' Wolf and others. 'Loco patris' are not in C. The reader may wonder what 'vel eo quo fuit' means. It is not worth the explanation. It is worthy of the writer; and it is unfortunately true, that it is worthy of Cicero; for he often says such things.

The rule that an older man could not adopt a younger is stated in the Institutes of Justinian (i. 11, § 4; Dig. 1. 7. 15): "Minorem natu non posse majorem adoptare placet." Schrader (ed. Inst.) remarks, "that the law on this point was once doubtful. Cicero finds fault with Clodius being adopted by a younger man, and says that it was not according to the Jus Pontificium; but Cicero himself admits that the Pontifices approved of it. Compare Sueton. Tiber. c. 2. Further it was a doubtful matter in the time of Gaius (i. 106): 'Sed et illa quaestio, an minor natu majorem adoptare possit.' The word 'placet' also shows that there was a question about the matter."—If the case of Clodius had decided that it was not legal for a 'minor' to adopt a 'major,' the doubt could not have existed in the time of Gaius. The passage in the Digest is from Ulpian, who says that a 'minor' cannot adopt a 'major.' The Declamator's law and his facts are equally bad.

legitimo . . . jure] Wolf doubts if 'legitimum jus' is ever used by other writers in the sense of 'jus civile' or 'jus publicum.' Perhaps the writer's 'legitimum jus' belongs to the same branch of law as his 'jus rei publicae,' both of which were unknown to the Romans. 'Legitimum jus' would mean the Law about Leges. Again, there is 'simulata adoptio,' where he is speaking of adoption generally; which is nonsense. Pantagathus read 'adeptio,' and Baiter has followed him. Wolf prefers 'adeptio' to any of the conjectures that have been made. It seems to me a very inappropriate word.

adhibeatur; ut haec simulata adoptio filii quam maxime veritatem illam suscipiendorum liberorum imitata esse videatur. Quae major calumnia est quam venire imberbem adolescentulum, bene valentem ac maritum, dicere filium senatorem populi Romani sibi velle adoptare; id autem scire et videre omnes, non ut ille filius instituatur, sed ut e patriciis exeat, et tribunus plebis fieri possit, idcirco adoptari? neque id obscure: nam adoptatum emancipari statim, ne sit ejus filius qui adoptarit. Cur ergo adoptabat? Probate genus adoptionis: jam omnium sacra interierint, quorum custodes vos esse debetis, jam patricius nemo relinquetur. Cur enim quisquam vellet tribunum plebis se fieri non licere, angustiorem sibi esse petitionem consulatus, in sacerdotium quum possit venire, quia patricio non sit is locus, non venire? Ut cuique aliquid acciderit quare commodius sit esse plebeium, simili ratione adoptabitur. Ita populus Romanus brevi tempore neque regem sacrorum, neque flamines, nec salios habebit, nec ex parte dimidia reliquos sacerdotes, neque auctores centuriatorum et curiatorum comitiorum; auspiciaque populi Romani, si magistratus patricii

major calumnia] He has just used the word with 'fraus' and 'dolus.' Now he says 'Quae major calumnia quam.' There was no 'calumnia' in a beardless youth coming and saying what he says here; the 'calumnia,' if any, consisted in the purpose of the adoption being fraudulent. See Vol. II. Pro Habito, c. 31, note on 'calumnia;' and Vol. I. Verr. ii. 1. c. 10. This adoption might be a fraud; but hardly a 'calumnia,' for the object of 'calumnia' is a definite person. However the word is sometimes used to express a fraudulent purpose. —'dicere filium:' 'dicere se filium,' Baiter, for which he has some authority.—'sed ut si . . . exeat, tribunus:' Halm, Baiter.— 'nam adoptatum emancipari :' the construction is not plain. If the new father emancipated Clodius, he would still be his son, but not in his power.

angustiorem] An allusion to the old rule that only one patrician consul could be elected each year, a rule which of course limited the chance of election for the patricians. (Livy, 27. c. 34; and 39, c. 32): "quia plus quam unum ex patriciis creari non licebat, artior petitio quatuor petentibus erat." The writer of course is speaking of the 'sacerdotia' to which the 'plebes' only were eligible. Ernesti changed 'quisquam vellet' into 'quisquam velit' in order to make it Latin and consistent with what follows. It should be 'velit,' and the author may have written it so.

regem sacrorum,] The 'rex sacrorum' or 'rex sacrificus' (Livy 40. c. 42) was a priest who retained the name of 'rex,' as a memorial of the time when the Roman kings had the highest priestly office. But he was subordinate to the Pontifex Maximus.

auctores . . . comitiorum;] He means the Patricii, who were the 'auctores comitiorum' in the early period; but not in Cicero's time. Becker (Handbuch, i. 2. p. 320) thinks that the author of this speech may have seen the passage in Livy (vi. 41) in Claudius' speech: "non leges auspicato ferantur, non magistratus creentur, nec centuriatis nec curiatis comitiis patres auctores fiant." The words 'nec curiatis' are in the passage as Becker cites it, but not in all editions. They are probably not genuine.

Klotz has a note on this passage: "Here as in many other passages Cicero's words have been taken by many persons too literally, when they maintain that these assertions are at variance with Roman institutions as they existed at that time. Nobody knew that better than our orator. However, as a shadow of those ancient and at this time unessential institutions still existed (compare the second speech in the Lex Agraria, c. 12), accordingly he sought to make use of this at least, in order to

creati non sint, intereant necesse est, quum interrex nullus sit, quod et ipsum patricium esse et a patriciis prodi necesse est. Dixi apud pontifices istam adoptionem nullo decreto hujus collegii probatam, contra omne pontificum jus factam, pro nihilo esse habendam; qua sublata intelligis totum tribunatum tuum concidisse. XV. Venio ad augures. Quorum ego libros, si qui sunt reconditi, non scrutor: non sum in exquirendo jure augurum curiosus. Haec, quae una cum populo didici, quae saepe in contionibus responsa sunt, novi. Negant fas esse agi cum populo, quum de caelo servatum sit. Quo die de te lex curiata lata esse dicatur, audes negare

show in a more unfavourable light the riotous and unwholesome character of the proceedings adopted by Clodius. Space forbids to go deeper here into particulars. In most passages however all depends on the point of view from which we consider them, and we think that we have given hints enough."

interrex] The name and the office originated in the kingly period. When a king died, a successor was elected, and the interval between the death of one king and the election of another was an Interregnum. An 'interrex' was named during this time, or several 'interreges' in succession, as some authorities say. The name continued during the Republic and the office also, and an 'interrex' was occasionally chosen. He must be a patrician and chosen by the patricians. The technical word is 'prodere,' which is used here (Liv. iii. 40): "quae patricios coire ad prodendum interregem jubebat." Baiter has altered the old reading 'a patricio prodi' to 'a patriciis prodi;' for Livy says (vi. 41): "ut nos quoque ipsi (patricii) sine suffragio populi auspicato regem prodamus."

The writer has used plenty of terms, but what is it that he says? The 'auspicia' of the Populus Romanus must perish, if patrician magistratus are not elected, there being no 'interrex,' for the 'interrex' must be a patrician and elected by the patricians. He who can divine what all this means may explain it: not I. "Davus sum, non Oedipus."

15. *Venio ad augures.*] He does not speak here as if they were present (c. 13). A man could not tell from what follows whether or not the writer supposed them to be present. Three augurs were present at the enacting of a Lex Curiata (Cicero, Ad Att. iv. 18). But they had nothing to do here. Ferratius, as already observed, Manutius, and Klotz find no way out of the difficulty, except by supposing that some of the Pontifices were also Augurs. When Cicero (Ad Att. iv. 2) speaks of the judgment given about his house, he says nothing of the augurs; and for a good reason. The augurs had nothing to do with the question. Even here the Declamator says (c. 14): "Dico apud pontifices."

Cicero was 'curiosus' about these matters or pretended to be, when he wrote one of his letters to Appius Claudius (Ad Fam. iii. 9): "Quum ipsam cognitionem juris augurii consequi cupio." Appius had dedicated to Cicero the first part of a work on augury (Liber Auguralis, Ad Fam. iii. 4). Cicero also wrote a work De Auguriis still later, when he was an augur (De Legg. ii. 8).

contionibus] This genuine orthography is now established. P. has 'contionibus,' G. 'conditionibus' with *di* erased; and V. has the faulty reading 'condicionibus.' Further on in this chapter P. G. have 'contione.'

lex curiata] Compare De Provinciis Cons. cc. 17, 19. The Lex Curiata for Clodius' adrogation. Bibulus was Caesar's colleague in the consulship, and he declared the 'auspicia' to be against the proceedings of the day. Every thing at Rome was done with a religious ceremonial: "Nihil publice sine auspiciis nec domi nec militiae gerebatur" (De Divin. i. 2). One of the forms of the 'auspicia' was derived from observing the heavens, about which there is a long passage in Dionysius (ii. 5). This practice is expressed by the words 'servare de caelo,' as Ad Atticum, ii. 16: "Bibulus de caelo tum servasset necne, sibi quaerendum non fuisse." The 'servare de caelo' did not consist in observing certain ceremonies as necessary preliminaries to the business. It was something observed before the business began, or said to be observed; and the declaration of this observation by a competent magistratus stopped the business of the day (Philipp. ii. 32).

de caelo esse servatum? Adest praesens vir singulari virtute, constantia, gravitate praeditus, M. Bibulus. Hunc consulem illo ipso die contendo servasse de caelo.—Infirma sunt igitur tua sententia acta C. Caesaris, viri fortissimi?—Minime; neque enim mea jam quidquam interest exceptis iis telis, quae ex illius actionibus in meum corpus immissa sunt. Sed haec de auspiciis, quae ego nunc perbreviter attingo, acta sunt a te. Tu tuo praecipitante jam et debilitato tribunatu auspiciorum patronus subito exstitisti: tu M. Bibulum in contionem, tu augures produxisti. Te interrogante augures responderunt, quum de caelo servatum sit, cum populo agi non posse. Tibi M. Bibulus quaerenti se de caelo servasse respondit: idemque in contione dixit, ab Appio fratre tuo productus, te omnino quod contra auspicia adoptatus esses tribunum non fuisse. Tua denique omnis actio posterioribus mensibus fuit, omnia quae C. Caesar egisset, quod contra auspicia essent acta, per senatum rescindi oportere; quod si fieret, dicebas te tuis humeris me custodem urbis in urbem relaturum. Videte hominis amentiam, ut per suum tribunatum Caesaris actis illigatus teneretur. Si et sacrorum jure pontifices et auspiciorum religione augures totum evertunt tribunatum tuum, quid quaeris amplius? an etiam apertius aliquod jus populi atque legum? XVI. Hora fortasse sexta diei questus sum in judicio, quum C. Antonium collegam meum defenderem, quaedam de re publica, quae mihi visa sunt ad

tua sententia . . . Minime;] '*sententia* om. C.' (Baiter). Wolf says that 'sententia' is in five Oxford MSS. He does not deny that the 'acta,' the measures passed in Caesar's consulship, are valid; and he adds, "for it does not now concern me whether they are valid or not after I have received those missiles, which from his measures have been sent into my body." This is what Wolf truly calls 'mirifica responsio.' Caesar did not oppose Clodius, because he did not wish to leave such an enemy behind him when he went into his province; he did not wish to see any of his 'acta' rescinded in his absence. The words 'haec de auspiciis' refer, as Wolf observes, to what follows. Compare De Harusp. Resp. c. 23.

Te interrogante] 'A te interrogati,' Mommsen, Baiter. It is a better expression, and V. has 'interrogati.'

Tua denique omnis] "All your measures in the latter months of your tribuneship were to this effect, that."—Baiter writes 'umeris,' following P., and it was no doubt the genuine form. He refers to Wagner, Orthog. Vergil. p. 477. P. has the same form 'umeris' in the last chapter of the oration Quum Senatui.

ut per suum] M. Baiter writes 'per suum' with a couple of asterisks in front of these words. Halm proposes 'quasi non ipse per suum.' Manutius explains the sentence: it was madness in Clodius to endeavour to rescind the 'acta' of Caesar, when his election as tribune was one of these 'acta.'—'an etiam,' &c.: this is strangely said, Is any 'jus populi' clearer and any 'jus legum?' I suppose it to mean: Is there any part of the 'jus publicum' or is there any Lex that is plainer? But 'jus populi' is as doubtful as 'jus rei publicae,' and 'jus legum' (c. 27). 'Jus populi Romani' is intelligible; and 'jus populi' is Latin, but not in the sense in which it is used here. 'Jus,' 'law,' sometimes means 'a rule of law,' and 'jura' in the plural is often used so. Gaius says (i. 47): "cetera vero jura ejus legis ad peregrinos non pertinere." It appears that 'jus legum' also is Latin (Pro Milone, c. 7). See 'legitimo jure,' c. 14; and De Harusp. Resp. c. 23, note.

illius miseri caussam pertinere. Haec homines improbi ad quosdam viros fortes longe aliter atque a me dicta erant detulerunt. Hora nona illo ipso die tu es adoptatus. Si quod in ceteris legibus trinum nundinum esse oportet, id in adoptione satis est trium esse horarum, nihil reprehendo. Sin eadem observanda sunt, si decrevit senatus M. Drusi legibus, quae contra legem Caeciliam et Didiam latae essent, populum non teneri, jam intelligis omni genere juris, quod in sacris, quod in auspiciis, quod in legibus sit, te tribunum plebis non fuisse. At ego hoc totum non sine caussa relinquo. Video enim quosdam clarissimos viros, principes civitatis, aliquot locis judicasse te cum plebe jure agere potuisse; qui etiam de me ipso, quum tua rogatione funere elatam rem publicam esse dicerent, tamen id funus, etsi miserum atque acerbum fuisset, jure indictum esse dicebant. Quod de me civi ac de re publica bene merito tulisses, funus te indixisse rei publicae, quod salvis auspiciis tulisses, jure egisse dicebant. Quare licebit, ut opinor, nobis eas actiones non infirmare, quibus illi actionibus constitutum tribunatum comprobaverunt.

Fueris sane tribunus plebis tam jure legeque quam fuit hic ipse

16. *ad quosdam viros*] "Cicerone in judicio quodam deplorante temporum statum, P. Clodium inimicum ejus frustra jampridem a patribus ad plebem transire nitentem eodem die horaque nona transduxit" (Sueton. Julius, c. 20).

trinum nundinum] The 'promulgatio trinum nundinum' (Cic. Phil. v. 3) was established by a Lex Caecilia and Didia, B.C. 98. According to this Lex a Rogatio must be promulgated, put up in public, three 'nundinae' before the voting day.

Baiter writes "observanda sunt, judicavit (C.) senatus . . . populum non teneri. Jam intelligis." Klotz has the same, and he maintains that the 'si' before 'judicavit' or 'decrevit' should be omitted, and that 'jam' should begin a new sentence. Drusus was a tr. pl. of B.C. 91. Here we have an example of the Senate acting as a supreme court and declaring that certain Leges were invalid for want of the proper forms being observed in their enactment.

The notice of the 'trinum nundinum' was required in the matter of an 'adrogatio' as well as in any other Lex, as Dion (39. c. 11) tells us. Wolf thinks that the passage in Dion is singular, whether he got it from this declamation or from a genuine oration of Cicero; for, he says, who can suppose that Cicero found fault with nothing in that Lex Curiata except the neglect of the 'trinum nundinum?' To this we may answer that if Dion says no more, that does not prove that he found no more in his authorities. Wolf concludes that Dion, as on many other occasions, derived his facts with no great accuracy from sources not the best. The remark about Dion is true. Other good judges have understood him well, Casaubon for instance. This compiler has of late been wonderfully overrated.

qui etiam de me, &c.] There is a passage in the oration De Provin. Cons. c. 19, from which this is taken: "Itaque vir summa auctoritate, summa eloquentia, dixit graviter casum illum meum funus esse rei publicae, sed funus justum et indictum." A comparison of the two will show how the Declamator worked up his material. He loves to multiply words and persons. Here it is 'clarissimi viri,' as he said 'quosdam viros fortes' just above, where he intended to refer to Caesar. "Amat iste pluralem numerum, in quo plus gravitatis est, interdum etiam plus sapientiae" (Wolf).—'Quare licebit,' &c.: wherefore we may allow those enactments to be valid, the Leges of Caesar, and the tribuneship of Clodius among them.

tam jure legeque] 'Tam in jure quam lege, P. V.,' Baiter with a †; who observes that Car. Stephanus has 'tam jure legeque,' which I suppose that C. Ste-

Rullus, vir omnibus rebus clarissimus atque amplissimus, quo jure, quo more, quo exemplo legem nominatim de capite civis indemnati tulisti? XVII. Vetant leges sacratae, vetant XII tabulae, leges privatis hominibus irrogari; id est enim privilegium. Nemo umquam tulit; nihil est crudelius, nihil perniciosius, nihil quod minus haec civitas ferre possit. Proscriptionis miserrimum nomen illud, et omnis acerbitas Sullani temporis, quid habet quod maxime sit insigne ad memoriam crudelitatis? Opinor, poenam in cives Romanos nominatim sine judicio constitutam. Hanc vos igitur, pontifices, judicio atque auctoritate vestra tribuno plebis potestatem dabitis, ut proscribere possit quos velit? quaero enim quid sit aliud proscribere: VELITIS, JUBEATIS UT M. TULLIUS IN CIVITATE NE SIT, BONAQUE EJUS UT MEA SINT. Ita enim fecit, etsi aliis verbis tulit. Hoc plebei scitum est, haec lex, haec rogatio est, hoc vos pati potestis, hoc ferre civitas, ut singuli cives singulis versiculis e civitate tollantur? Equidem jam perfunctus sum: nullam vim, nullum impetum metuo: explevi animos invidorum; placavi odia improborum; saturavi etiam perfidiam et scelus proditorum; denique de mea caussa, quae videbatur perditis civibus ad invidiam esse proposita, jam omnes urbes, omnes ordines, omnes dii atque homines judicaverunt. Vobismetipsis, pontifices, et vestris liberis ceterisque civibus pro vestra auctoritate et sapientia consulere debetis. Nam quum tam moderata judicia populi sint a majoribus constituta, primum, ut ne poena capitis cum pecunia

phanus found in some MS. It is the true form. See the formula from Gellius, c. 18, note.—'Rullus:' some suppose this 'hic ipse Rullus,' who was present before the Pontifices, to be the tribune who proposed the Agraria Lex, which Cicero resisted. Others take him to be another. It is easy to see why he is introduced, if he is the 'great Rullus.' He was one of the Pontifices, it seems, if he is the P. Servilius mentioned in the De Haruspicum Responsis, c. 6. Baiter has 'Villius.' The name is uncertain.

17. *privilegium.*] See the Quum Senatui, c. 10, and Pro Sestio, c. 30: "Cur quum de capite civis," &c.

velitis, jubeatis ut] In the formula of a Lex 'ut' is often used with the subjunctive, as Markland shows by examples. Indeed this appears to be the old formula. The writer does not affect to give the words of the Rogatio.

Ita enim fecit, etsi] 'Ita enim re etsi,' Mommsen, Baiter.

poena capitis cum pecunia, &c.] This expression has been noted as faulty, and it has also been defended. But those who would maintain it must find it elsewhere in a good writer. All this long sentence to the end of the chapter is full of confusion. —'nisi prodicta:' 'ne improdicta' Mommsen, Baiter. I do not know if there is any authority for 'nisi.' P. G. have 'ne in prodicta.' 'Dicere diem' is the common expression.

Markland says that it was the business of a magistratus 'citare,' but not 'accusare.' Gesner can explain all this about the 'populi judicia' by examples from Livy (26. c. 2; 38. c. 50), where a magistratus is the 'accusator.' He should have found one where he was judex also. All about the 'die intermissa,' and the 'trinum nundinum' is unintelligible.

Baiter follows Nägelsbach, who writes 'sublatum sit.'

Klotz observes on this passage: "in this passage also Wolf has committed many mistakes. We pass over the same, and only

conjungatur; deinde, ne nisi prodicta die quis accusetur; ut ter ante magistratus accuset intermissa die quam mulctam irroget aut judicet; quarta sit accusatio trinum nundinum prodicta die, quo die judicium sit futurum; tum multa etiam ad placandum atque ad misericordiam reis concessa sint, deinde exorabilis populus, facilis suffragatio pro salute; denique etiam si qua res illum diem aut auspiciis aut excusatione sustulit, tota caussa judiciumque sublatum est; haec quum ita sint in re, ubi crimen est, ubi accusator, ubi testes, quid indignius quam qui neque adesse sit jussus, neque citatus, neque accusatus, de ejus capite, liberis, fortunis omnibus conductos et sicarios, egentes et perditos suffragium ferre, et eam legem putare? XVIII. At si hoc de me potuit, quem honos, quem dignitas, quem caussa, quem res publica tuebatur, cujus denique pecunia non expetebatur, cui nihil oberat praeter

add the following to explain Cicero's meaning," &c. After some words of introduction he explains the passage. He translates 'intermissa die' by 'in verschiedenen Fristen,' 'at different times:' and the 'quarta accusatio' is explained thus:—The three notices on the three several 'nundinae' are to be reckoned as three 'accusationes,' because notice was given of the charge against the accused, though the trial (judicium) and the proposal of the penalty (mulctae irrogatio) could not take place until after the fourth 'accusatio;' just as in the other trials, when double proceedings were allowed, the accusation was made twice, and not till after the second 'accusatio' the decision of the judices was given.

The remark about the double proceedings in other trials is not to the purpose. The trial was sometimes adjourned: that is all. The making the 'accusatio' twice is absurd.

Wolf says of Markland and Lambinus, who could not understand the text: "putabant nimirum illi h. l. dicendum fuisse de judiciorum hujus temporis consuetudine, non de judiciis ab ipso populo rarius exercitis. Sed de his dicere sane placuit Auctori: quae autem profert, tametsi aliqua veritas et antiquitatis cognitio perlucet, tamen sic partim perplexa, partim male Latina scripta sunt, ut nusquam vestigium Ciceronis appareat."

denique etiam si qua res . . . sustulit,] "Denique ferri facile posset, si esset *auspicia aut excusatio sustulit:* at quid est *res aliqua sustulit diem aut auspiciis aut excusatione?* Sic neque Livius loquitur quem huic scriptori lectum esse ex aliquot locis suspicor, neque alius ullus veterum scriptorum; nec quisquam eorum tam ridiculam facilitatem tollendi judicii quaerendaeque impunitatis novit, qualis h. l. describitur: *tota causa judiciumque sublata est.* Quasi dixisset: Solvuntur risu tabulae, tu missus abibis" (Wolf). Klotz says on these words: "Far from this way of speaking being not Latin, it is rather, with its genuine Latin distinction of the ideas by the repetition of *aut*, altogether in the spirit of Cicero's way of speaking and of the Roman people." He maintains that Hotmann rightly understood the words 'tota causa judiciumque sublatum est,' which mean that if it was intended to prosecute a second time, the prescribed times and other formalities must be observed over again; and this explanation, he observes, agrees with what Dion Cassius (37. c. 28) says of this procedure on the occasion of the prosecution of Rabirius by Labienus. Klotz further remarks that Garatoni misunderstood the words 'tota causa judiciumque;' for 'caussa' means not the 'factum' only which was the foundation of the charge, but merely that which takes place at the trial for the purpose of the charge and the penalty; and accordingly Cicero does not say—then the accused is for ever free, but only this—that what has hitherto been done in the matter and in the trial are at an end, by which a resuming of the thing itself (rei) is not excluded, though the thing itself, so far as it was carried on before the court (caussa), is no longer in operation.

18. *oberat praeter*] This is very obscurely expressed. He means, "in whom there was nothing to cause me harm except

conversionem status et inclinationem communium temporum, quid tandem futurum est iis, quorum vita remota ab honore populari et ab hac illustri gratia est, pecuniae autem tantae sunt, ut eas nimium multi, egentes, sumptuosi, nobiles concupiscant? Date hanc tribuno plebis licentiam, et intuemini paullisper animis juventutem, et eos maxime qui imminere jam cupiditate videntur in tribuniciam potestatem: collegia, medius fidius, tribunorum plebis tota reperientur hoc jure firmato, quae coeant de hominum locupletissimorum bonis, praeda praesertim populari et spe largitionis oblata.

At quid tulit legum scriptor peritus et callidus? VELITIS, JUBEATIS UT M. TULLIO AQUA ET IGNI INTERDICATUR? Crudele, nefarium, ne in sceleratissimo quidem civi sine judicio ferundum. Non tulit ut interdicatur. Quid ergo? UT INTERDICTUM SIT. O caenum, o portentum, o scelus! Hanc tibi legem Clodius scripsit spurciorem lingua sua, ut interdictum sit cui non sit interdictum? Sexte noster, bona venia, quoniam jam dialecticus es et haec quoque liguris, quod factum non est, ut sit factum, ferri ad populum aut verbis ullis sanciri aut suffragiis confirmari potest? Hoc tu scriptore, hoc consiliario, hoc ministro, omnium non bipedum solum, sed etiam quadrupedum impurissimo, rem publicam perdidisti? neque tu eras tam excors tamque demens ut nescires Clodium esse qui contra leges faceret, alios qui leges scribere solerent; sed neque eorum neque ceterorum, in quibus

the change of condition and the downward course of the commonwealth." I suppose the change of condition to be his own change of condition.

et igni] There is a reading 'et ignis,' but the ablative is the regular construction.

ut interdictum sit.] Was this so written in the Lex, or did the Declamator invent it to found an argument on it? Markland supposes that 'interdictum sit' might be said as well as 'interdicatur.' The fact is, that the infinitive present is the common form in a 'rogatio.' When the subjunctive is used, as in the formula of 'adrogatio' (Gellius, v. 19), it is in the present: "Velitis, jubeatis Quirites ut Lucius Valerius Lucio Titio tam jure lege q. (sibi) filius siet quam si," &c.; where a past tense would not do. If the 'rogatio' of Clodius was expressed in the form 'interdictum sit,' that did not affect its validity, and all this talk about it has no purpose. Cicero never makes this objection to the Lex of Clodius when he is speaking about it. Are we to suppose that Clodius and his partizans could not follow the usual formula, whatever it was?

jam dialecticus es] 'Es' is wanting in some MSS.; perhaps in all. The Declamator is witty: he calls him 'Dialecticus;' but I do not see the point of his wit. Cicero's definition of 'dialectica' is "ars bene disserendi et vera ac falsa dijudicandi" (De Or. ii. 38; and Top. c. 2; Brutus, c. 41, 42, speaking of Servius): an art to which the Declamator is quite a stranger.

liguris,] Manutius has explained what Hotmann did not understand. All that follows is miserable. The opposition between the Clodius who acted against the laws, and others who are employed to draw up the laws, is exactly after this writer's fashion. —'operum architectis:' architects of what? Of the temple of Libertas, says Manutius, which was built on the site (area) of Cicero's house on the Palatine. The allusion to the Pontifex is explained by c. 51.

esset aliquid modestiae, cujusquam tibi potestas fuit; neque tu legum scriptoribus iisdem potuisti uti quibus ceteri neque operum architectis; neque pontificem adhibere quem velles: postremo ne in praedae quidem societate mancipem aut praedae socium extra tuorum gladiatorum numerum, aut denique suffragii latorem in ista tua proscriptione quemquam nisi furem ac sicarium reperire potuisti.

XIX. Itaque quum tu florens ac potens per medium scortum populare volitares, amici illi tui te uno amico tecti et beati, qui se populo commiserant, ita repellebantur ut etiam Palatinam tuam perderent; qui in judicium venerant, sive accusatores erant sive rei, te deprecante damnabantur. Denique etiam ille novitius Ligur, venalis ascriptor et subscriptor tuus, quum M. Papirii sui fratris esset testamento et judicio improbatus, mortem ejus se velle persequi dixit: nomen Sex. Propertii detulit. Accusare alienae dominationis scelerisque socius propter calumniae metum non est ausus. De hac igitur lege dicimus quae jure rogata videatur;

praedae socium] 'G. M., praedem socium P.': 'mancipem aut praedem extra,' Garatoni, followed by Baiter. Manutius suggested 'praedem, socium.' The 'manceps' is the purchaser at the sale, and he who takes the 'publica' on lease from the Censors. The 'praes' was he who joined as security (fidejussor).

Pithoeus and Graevius proposed 'sectione' (sectio, a public sale; sector) for 'societate.' Garatoni also would like to have 'sectione.' And all this to mend what does not want mending: "not even in the partnership in booty could you find a 'manceps' or a partner in your booty out of," &c. Very true that it is not Ciceronian, nor is it sense; but it is like the rest.

19. *per medium*] 'Per medium forum scortum populare' Lambinus, Baiter. 'Per medium cohortis popularis' is the common reading in the printed books.

qui se populo commiserant,] This is explained to mean who were candidates for the 'honores' in the Comitia. There is an allusion to Vatinius, who was a candidate for the aedileship and was rejected. The Palatina is the 'tribus Palatina,' of which they lost the votes. It contained many of the rabble, the 'operae' of Clodius (Pro Sestio, c. 53): "tribum suam non tulit, Palatinam denique, per quam omnes illae pestes vexare rem publicam dicebantur perdidit."

novitius Ligur, . . . discessit.] Ligur is Sex. Aelius, tribunus pl., who assumed the cognomen Ligur. A man who is accustomed to read Cicero, will find all this very obscure. Ligur was passed over (praeteritus, praetermissus) in his brother's will, which was discreditable to him (Pro P. Quintio, c. 4. Vol. II.). Ligur said that he would avenge his brother's death: he brought a charge of murdering his brother against Sex. Propertius (nomen detulit). But he did not venture to prosecute the charge for fear of involving himself in a prosecution for 'calumnia,' for making a malicious charge. Markland could see no sense in 'damnationis socius,' for so it is generally read. But 'dominationis' is the MSS. reading, and it is adopted by Baiter. There is also a reading 'socios.' Klotz says that Gesner has excellently illuminated this passage. Gesner says of Ligur, "Ipsam tamen accusationem ingredi non est ausus: cur? Propter metum, ne, si non probaret crimen, calumniae damnaretur. Unde autem ille metus? Quia socius erat damnationis injustae ac sceleris in Ciceronem et patriam commissi, propter quod se injustum et suspectum sentiret." Markland could not see how Propertius could be called 'damnationis socius,' when in the same sentence it is said that he was very far from the danger of a 'damnatio,' since he gave up the prosecution. But Gesner has made it all plain. He could understand any thing.

De hac lege . . . videatur;] He means the Lex of Clodius directed against Cicero, a Lex 'quae jure rogata videatur,' which is rather obscure. "Of this Lex whoever

cujus quam quisque partem tetigit, digito, voce, praeda, suffragio, quocumque venit, repudiatus convictusque discessit.

Quid, si iis verbis scripta est ista proscriptio ut se ipsa dissolvat? est enim, QUOD M. TULLIUS FALSUM SENATUSCONSULTUM RETTULERIT. Si igitur rettulit falsum senatusconsultum, tum est rogatio; si non rettulit, nulla est. Satisne tibi videtur a senatu judicatum, me non modo non ementitum esse auctoritatem ejus ordinis, sed etiam unum post urbem conditam diligentissime senatui paruisse? Quot modis doceo legem istam quam vocas non esse legem? Quid, si etiam pluribus de rebus uno sortitu rettulisti? tamenne arbitraris id quod M. Drusus in legibus suis plerisque in bonis ille vir M. Scauro et L. Crasso consularis non obtinuerint, id te posse, omnium facinorum et stuprorum omnium Decumis et Clodiis auctoribus obtinere? Tulisti de me ne reciperer, non ut exirem; quem tu ipse non poteras dicere non licere esse Romae. XX. Quid enim diceres? Damnatum? certe non. Expulsum? qui licuit? Sed tamen ne id quidem est scriptum, ut exirem; poena est qui receperit, quam omnes neglexerunt: ejectio nusquam est. Verum sit. Quid operum publicorum exactio, quid nominis in-

touched a part with finger, word, booty, or vote"—a most singular expression. The thing is said in the Pro Sestio, c. 31, in another way: "Quisquis erat qui aliquam partem in meo luctu sceleris Clodiani attigisset, quocunque venerat, quod judicium cunque subierat, damnabatur." The good Gesner finds all this right. "Quaeritur quid sit *praeda tangere partem legis*. Quasi vero non paullo ante *societatis praedae*, quasi non passim (c. 24) direptarum villarum suarum mentionem faceret." Granted that this is the meaning; but a man cannot use any words that he pleases to express his meaning. He must talk like other people.

But the passage in the Pro Sestio explains the passage in the preceding note. 'Qui aliquam partem . . . sceleris Clodiani attigisset' is the 'sceleris socius' of our writer, who adds 'dominationis' after his fashion of saying sometimes more than his original. The rest of the sentence shows that Markland understood the 'propter calumniae metum' right, for every man who had been a partizan of Clodius "quocunque venerat, quod judicium cunque subierat, damnabatur."

senatusconsultum] Supposed to be the S. C. about the punishment of Catilina's associates. An imaginary 'falsum S. C.' made by the Declamator, like many other things in this speech, in order to introduce us to his logical skill: 'Si igitur rettulit,' &c.—'uno sortitu rettulisti:' it should be 'tulisti,' as Manutius observes: "non refert ad populum, sed fert tribunus pl.; refert autem vel ipse vel ceteri magistratus ad senatum." He also proposes to read 'scitu' for 'sortitu.' Hotmann explains 'uno sortitu' thus: "against the Lex Caecilia et Didia, which forbade one Lex about different matters to be proposed to the populus." The words 'in bonis . . . consularis' are the MSS. reading or near it, but they are evidently corrupt. The common reading in the printed books is "plerisque bonus ille vir, M. Scaurus et L. Crassus consularis." This Decumus is unknown, but Manutius conjectures that he may be the man who is mentioned with Gellius (Ad Att. iv. 3).—'hominem facinorum,' Baiter.

ne reciperer,] 'Ne quis me tecto reciperet,' one of the parts of the Rogatio containing the interdict.

20. *operum publicorum exactio,*] The verb 'exigere' is used to signify the examination of a contractor's work by him who is appointed to superintend the erection or repair of some public building. This passage probably means that Clodius was appointed to superintend the building which

scriptio tibi num aliud videtur esse ac meorum bonorum direptio? praeterquam quod ne id quidem per legem Liciniam, ut ipse tibi curationem ferres facere potuisti? Quid hoc ipsum, quod nunc apud pontifices agis, te meam domum consecrasse, te monumentum fecisse in meis aedibus, te signum dedicasse, eaque te ex una rogatiuncula fecisse, unum et idem videtur esse atque id quod de me ipso nominatim tulisti? Tam hercule est unum, quam quod idem tu lege una tulisti, ut Cyprius rex, cujus majores huic populo socii atque amici semper fuerunt, cum bonis omnibus sub praecone subjiceretur et exsules Byzantium reducerentur. Eidem, inquit, utraque de re negotium dedi. Quid, si eidem negotium dedisses, ut in Asia cistophorum flagitaret, inde iret in Hispaniam, quum

was to be erected on the site of Cicero's house, and to see that the contractors (redemptores) did their work properly. This is Ferratius' explanation. On the words 'tibi num aliud' Wolf remarks, "Ridicula interrogatio, qua postulatur ab ipso Clodio, ut affirmet, rem sibi nihil aliud videri nisi direptionem."

See how he handles the matter. First he says Clodius' Lex enacted that no man should receive Cicero in his house, but the Lex did not say that he must go. And for a good reason. He was gone when the interdict was enacted; and such an Interdictum did not in formal words send a man away: it accomplished this by depriving him of the necessaries of life, fire, water, and house within certain limits; as this writer tells us (c. 30). Again he returns to his point like a man who persists in repeating his words, when there is no sense in what he says. 'Ejection is not mentioned.' But he is so strong in his case, he can give up that point (verum sit): perhaps he recollected that he had said (Quum Populo, c. 4) that he was ejected (a quibus ejectus sum). He then asks if Clodius' superintendence of the 'opera publica,' whatever these 'opera publica' were, and the inscription of his name, must not be considered a plundering of Cicero's property. He might as well have asked if it was not murder.

legem Liciniam,] "Licinia est lex et altera Aebutia, quae non modo eum qui tulerit de aliqua curatione ac potestate, sed etiam collegas ejus, cognatos, affines excipit, ne eis ea potestas curatiove mandetur" (Vol. II. De Lege Agrar. ii. c. 8). Here we have the genuine expression 'tulerit de aliqua curatione,' in place of which this writer has the expression 'ipse tibi curationem ferres,' which, as Markland observes, is not Latin.

Cyprius rex,] Ptolemaeus, c. 8.—The story of these Byzantine exiles is told by Plutarch (Cato Min. c. 34): "And as if he had given him (Cato) but small occupation with the affairs of Cyprus and Ptolemaeus, Clodius commissioned him also to restore the Byzantine fugitives, his wish being that Cato should be as long as possible from Rome during his tribuneship." Compare Pro Sestio, c. 26; and Cicero (Ad Q. Fratrem, ii. 9).

sub praecone] 'sub praeconem,' Wesenberg, Baiter.—'dedisses, M.:' 'dedisset, P. G.,' Baiter, and 'scriberet' for 'scriberes.'

Asia cistophorum] The 'cistophorus' was a silver coin of the kingdom of Pergamum, and was generally in circulation in the Roman province of Asia. It had on it the representation of a 'cista,' or sacred chest, whence the name. In this passage there is an allusion to Gabinius and perhaps to Piso also. The writer supposes many things put in one Lex, and asks if the Lex could be called one, because it all related to one man; who is supposed to have a commission for demanding 'cistophorus' in Asia, then for going to Spain and so on. As this is merely an hypothetical case, the writer is inexcusable for the expression 'in Asia cistophorum flagitaret,' without letting us know on what ground or for what purpose, or something. We can easily fix a meaning to the passage, but it is a writer's business to tell us what he means. "An allusion," says Klotz, "to A. Gabinius, which, as Gesner remarks, must have been immediately understood by every person who was informed of the facts." This is of a piece with Scheller's famous 'edictum' (Quum Senatui, c. 8). How must people know a thing, says Wolf, except by means of plain words?

Roma decessisset, consulatum ei petere liceret, quum factus esset, provinciam Syriam obtineret, quoniam de uno homine scriberes, una res esset? Quod si jam populus Romanus de ista re consultus esset, et non omnia per servos latronesque gessisses, nonne fieri poterat ut populo de Cyprio rege placeret, de exsulibus Byzantiis displiceret? Quae est, quaeso, alia vis, quae sententia Caeciliae legis et Didiae nisi haec, ne populo necesse sit in conjunctis rebus compluribus aut id quod nolit accipere, aut id quod velit repudiare?

Quid, si per vim tulisti, tamenne lex est? aut quidquam jure gestum videri potest quod per vim gestum esse constet? An si in ipsa latione tua capta jam urbe lapides jacti, si manus collata non est, idcirco tu ad illam labem atque eluviem civitatis sine summa vi pervenire potuisti? XXI. Quum in tribunali Aurelio conscribebas palam non modo liberos, sed etiam servos, ex omnibus vicis concitatos, vim tum videlicet non parabas? Quum edictis tuis tabernas claudi jubebas, non vim imperitae multitudinis, sed hominum honestorum modestiam prudentiamque quaerebas? Quum arma in aedem Castoris comportabas, nihil aliud nisi uti ne quid per vim agi posset machinabare? Quum vero gradus Castoris convellisti ac removisti, tum, ut modeste tibi agere liceret, homines audaces ab ejus templi aditu atque ascensu reppulisti? Quum eos, qui conventu virorum bonorum verba de salute mea fecerant, adesse jussisti, eorumque advocationem manibus, ferro, lapidibus discussisti, tum profecto ostendisti vim tibi maxime displicere. Verum haec furiosa vis vesani tribuni plebis facile superari frangique potuit virorum bonorum vel virtute vel multitudine. Quid, quum Gabi-

quum Roma decessisset,] Baiter has 'Romae,' but he marks the passage as corrupt. Garatoni wrote 'Romam.' Mommsen proposes 'redux esset' for 'decessisset.'

populo . . . displiceret?] Wolf observes that no Roman ever said, so far as he knows, "Senatui, populo, displicet de hac vel illa re." Those who maintain the genuineness of this oration must find the answer to this objection. Klotz does not answer it.

quaeso,] This is a correction of the reading 'quasi.'

in conjunctis rebus] The Romans called it a 'lex satura,' when many things were comprehended in one Lex. The Lex Caecilia et Didia related to the 'trinundinum,' c. 16. Here it is said that it also contained a clause against several things being in one Lex, and thus it would seem to be an instance of the very practice which it did not permit. Manutius tries to explain this, but not successfully.

lapides jacti,] There is a good note of Wolf here: "intellige, si libet (nam, si non libet, nihil te cogit) 'si lapides jacti non sunt.'" I suppose the writer means what Wolf says, if he has a meaning: "Non affirmat sed negat" (Manutius).—'ad illam labem atque eluviem:' on which Ernesti acutely observes, that he never liked this, and it has not the Ciceronian character.

21. *Aurelio*] See Pro Flacco, c. 28.

Verum haec . . . multitudine.] Here the feebleness of the writer is seen. He has been very sarcastic; he has enumerated many acts of violence, and he ended by saying with a fine irony, that all this proved Clodius' dislike of violence. Then

nio Syria dabatur, Macedonia Pisoni, utrique infinitum imperium, ingens pecunia, ut tibi omnia permitterent, te adjuvarent, tibi manum, copias, tibi suos speratos centuriones, tibi pecuniam, tibi familias compararent, te suis sceleratis contionibus sublevarent, senatus auctoritatem irriderent, equitibus Romanis mortem proscriptionemque minitarentur, me terrerent minis, mihi caedem et dimicationem denuntiarent, meam domum refertam viris bonis per amicos suos complerent, proscriptionis metu me frequentia nudarent virorum bonorum, me praesidio spoliarent, senatum pro me non modo pugnare, amplissimum ordinem, sed etiam plorare, et supplicare mutata veste prohiberent, ne tum quidem vis erat? XXII. Quid igitur ego cessi aut qui timor fuit? non dicam, in me—fac me timidum esse natura—quid illa tot virorum fortissimorum millia? quid nostri equites Romani? quid senatus? quid denique omnes boni? Si nulla erat vis, cur me flentes potius prosecuti sunt quam aut increpantes retinuerunt aut irati reliquerunt? An hoc timebam, si mecum ageretur more institutoque majorum, ut possem praesens sustinere? Utrum si dies dicta esset, judicium mihi fuit pertimescendum, an sine judicio privilegium? Judicium in caussa tam turpi? Scilicet homo, qui eam si jam esset ignota

he makes this silly remark: "All this violence might have been easily overpowered and crushed either by good men's courage or number." If number alone was enough, bad men would have done as well as good. He then returns to his 'vis,' and so drags on through another long tedious sentence. "Bene sonat brevis periodus, longioribus duabus interjecta. Unum deest: verba, ad sonum optima, nihil rei continent, aut aliquid falsi. Ac cito ad *vim* redibit, quae hic dicitur fracta et superata esse" (Wolf).

speratos] There is no sense in 'speratos centuriones,' 'the centurions whom they hoped for;' for, as Graevius observes, the consuls could not be said to lend Clodius the centurions whom they hoped to have. Lambinus wrote 'sparatos' 'armed with spari,' which is as ridiculous as if we were to speak of a regular soldier armed with a pitchfork. Graevius changed 'speratos' to 'paratos.'

meam domum] Markland, who is followed by Baiter, points thus, and alters 'Senatum' into 'Senatus:' "complerent proscriptionis metu, me frequentia . . . spoliarent Senatus; pro me non modo." Perhaps this mends it a little; but there is no reason for mending. Markland observes that the matter is got from the oration In Pison. c. 5: "Erat non solum domus mea, sed totum Palatium, Senatu, equitibus Romanis, civitate omni, Italia cuncta refertum;" and from the oration Pro Plancio, c. 35: "Aderat mecum," &c.

22. *cessi*] The correction of Pantagathus, confirmed by Codd. Lagom. tres. The other MSS. have 'gessi.'—'more institutoque:' if he had been tried by the 'populus' after the old fashion, or if some bill of pains and penalties were carried against him. The phrase 'si dies dicta esset' expresses the notice of trial.

Judicium . . . explicare.] I suppose he is ironical: 'Fear a trial in such a bad case?' What follows seems corrupt. Garatoni would read 'An is homo sum.' A 'caussa incognita' is a 'caussa' in which the 'patronus' has not been instructed by his clients or which he has not studied (De Or. ii. 24): "Ita nonnulli caussas dicunt incognitas, in quo est illa quidem magna offensio vel negligentiae susceptis rebus, vel perfidiae receptis." So a 'caussa ignota' might be a 'caussa' that a man is not acquainted with. But he means, I suppose, what Klotz says, that his 'caussa' was well known to all the Romans. And if it had not been, he could easily have explained it.

dicendo non possem explicare. An quia caussam probare non poteram, cujus tanta bonitas est ut ea ipsa non modo se, sed etiam me absentem per se probarit? An senatus, an ordines, an ii qui cuncta ex Italia ad me revocandum convolaverunt, segniores me praesente ad me retinendum et conservandum fuissent in ea caussa, quam ipse jam parricida talem dicat fuisse, ut me ab omnibus ad meam pristinam dignitatem expectatum atque revocatum queratur? An vero in judicio periculi nihil fuit, privilegium pertimui, ne, mihi praesenti si mulcta irrogaretur, nemo intercederet? Tam inops autem ego eram ab amicis aut tam nuda res publica a magistratibus? Quid, si vocatae tribus essent, proscriptionem, non dicam in me ita de sua salute merito, sed omnino in ullo civi comprobavissent? An si ego praesens fuissem, veteres illae copiae conjuratorum tuique perditi milites atque egentes et nova vis sceleratissimorum consulum corpori meo pepercissent? qui quum eorum omnium crudelitati scelerique cessissem, ne absens quidem luctu meo mentes illorum satiare potui.

XXIII. Quid enim vos uxor mea misera violarat, quam vexavistis, raptavistis, omni crudelitate lacerastis? Quid mea filia, cujus fletus assiduus sordesque lugubres vobis erant jucundae, ceterorum omnium mentes oculosque flectebant? Quid parvus

expectatum] Graevius says that one MS. had 'expetitum,' as it is in the edition of Manutius of 1583, which Manutius got from Ursini, who remarks that Pantagathus read 'expetitum.' Baiter does not mention this, which may be the true reading.

An vero] "Was it the fact that there was no danger in a trial, and that I was afraid of a 'privilegium' and there being no tribune to interpose, if a fine was proposed to be put on me?" Baiter points it thus: 'An vero . . . nihil fuit: privilegium' &c., but I do not understand that. Graevius thinks that it ought to be 'An vero si in judicio,' and so it seems. Wolf remarks that the writer had before him a passage in the Pro Milone, c. 14: "Diem mihi, credo, dixerat, multam irrogarat, actionem perduellionis intenderat."

nova vis . . . consulum] 'Nova manus,' Graevius, Baiter. Cod. Francianus primus has 'non manus' (Baiter), which may mean 'nova manus.' Graevius says that the MS. has 'nova manus.' P. (pr. manu) has 'nova || nus.' But 'nova manus consulum' is strange. It is not like 'nova perditorum hominum manus' which Graevius quotes from Florus, ii. 10; nor is 'magna vis consulum' like 'magna vis hominum.'—'illorum,' G. M.: 'eorum,' P., Baiter.

23. *uxor mea*] Comp. Pro Sestio, c. 24: "Vexabatur uxor mea," &c., and c. 69; and Ad Fam. xiv. 2. His little son, six or seven years of age, was always crying. He was 'lacrimans et confectus.' 'Confectus' is generally used with an ablative, as 'vulneribus confectus,' but it is used thus in the orations against Catilina, ii. 11: "gladiatori illi confecto et saucio." All this is said 'oratorie.' Wolf remarks "that the writer's impetuosity from the beginning of this chapter carried him so much into plurals that he seems to have forgotten that he was addressing the Pontifices, unless perchance the faction of Clodius and the wicked consuls was assembled in some place, so that he might turn his eyes and his hands in that direction:" which, I think, is not probable. But he addresses Clodius all through this speech as if he were present. Klotz says that no body will take offence at this who knows Cicero's way of speaking; and that such apostrophes certainly did not seem strange to the court of Pontifices. We can only say they must have been very patient to listen to so much rant about a matter which was foreign to the question, the orator's house.

filius, quem quamdiu afui nemo nisi lacrimantem confectumque vidit, quid fecerat quod eum toties per insidias interficere voluistis? Quid frater meus, qui quum aliquanto post meum discessum ex provincia venisset, neque sibi vivendum nisi me restituto putaret, quum ejus maeror, squalor incredibilis et inauditus, omnibus mortalibus miserabilis videbatur, quoties est ex vestro ferro ac manibus est elapsus? Sed quid ego vestram crudelitatem expromo quam in ipsum me ac meos adhibuistis, qui parietibus, qui tectis, qui columnis ac postibus meis hostificum quoddam et nefarium omni imbutum odio bellum intulistis? Non enim te arbitror, quum post meum discessum omnium locupletium fortunas, omnium provinciarum fructus, tetrarcharum ac regum bona spe atque avaritia devorasses, argenti et supellectilis meae cupiditate esse caecatum; non existimo, Campanum illum consulem cum saltatore collega, quum alteri totam Achaiam, Thessaliam, Boeotiam, Graeciam, Macedoniam omnemque barbariam, bona civium Romanorum condonasses; alteri Syriam, Babylonem, Persas, integerrimas pacatissimasque gentes, ad diripiendum tradidisses, illos tam cupidos liminum meorum et columnarum et valvarum fuisse. Neque porro illa manus copiaeque Catilinae caementis ac testis tectorum meorum se famem suam expleturas putaverunt. Sed, ut hostium urbes, nec omnium hostium, verum eorum quibuscum acerbum bellum intestinumque suscepimus, non praeda adducti, sed odio solemus ex-

squalor incredibilis] Quum Populo, c. 3.—'expromo:' Wolf says that Cicero does not use the word thus; nor does he say 'crudelitatem in aliquem adhibere.' The words 'postibus meis hostificum quoddam,' &c., show the rhetorician and phrase-maker.

provinciarum] 'Provintiarum' P., which I have noted several times as the genuine orthography.—'Campanum illum:' see Quum Senatui, c. 7.

Achaiam, . . . Macedoniam omnemque barbariam,] Wolf supposes that this is taken from the oration in Pisonem, c. 16: "Omnis erat tibi Achaia, Thessalia, Athenae, cuncta Graecia addicta." Ernesti asks why Boeotia and Graecia, Thessalia and Macedonia are mentioned separately. He supposes it to be done 'augendi causa.' Wolf says: "Recte. Et optimi quidem oratores aliquid addunt augendi causa, sed id faciunt arte quadam, non vocabula temere cumulant." He adds that Boeotia ought not to have been added at all. But in the oration Pro Flacco, c. 26, Cicero says: "adsunt ex Achaia cuncta multi legati, Boeotia, Thessalia;" and he has the same in c. 40. But he has not both Achaia and Graecia.

columnarum et valvarum] The columns used in the construction of his house. The Romans imported valuable kinds of stone, marble, porphyry, and others for the ornament of their houses:

> "Non trabes Hymettiae
> Premunt columnas ultima recisas
> Africa." (Horace, Carm. ii. 18.)

They even brought stone from Docimia or Docimeium in Phrygia (Strabo, pp. 437, 577). See Juven. vii. 182: and the note on 'valvae,' Vol. I. Verr. ii. 4. c. 56.—'caementis:' the materials of which the house was made and the tiles.

expleturas putaverunt.] "Quid? *putaverunt.* Vult dicere, *famem explere voluerunt.*" (Wolf.)

intestinumque] As this is the wrong word, Baiter has put in its place 'internecivumque' with the name of Graevius as the authority. Graevius says, if the MSS. were in favour of it, he would have adopted the

scindere, quod, in quos propter eorum crudelitatem inflammatae mentes nostrae fuerunt, cum horum etiam tectis ac sedibus residere aliquod bellum semper videtur: * *

XXIV. Nihil erat latum de me; non adesse eram jussus; non citatus afueram: eram etiam tuo judicio civis incolumis, quum domus in Palatio, villa in Tusculano, altera ad alterum consulem, transferebatur, senatusconsulta volabant, columnae marmoreae ex aedibus meis inspectante populo Romano ad socrum consulis portabantur; in fundum autem vicini consulis non instrumentum aut ornamenta villae, sed etiam arbores transferebantur, quum ipsa villa non praedae cupiditate—quid enim erat praedae?—sed odio et crudelitate funditus everteretur. Domus ardebat in Palatio non fortuito, sed oblato incendio: consules epulabantur et in conjuratorum gratulatione versabantur, quum alter se Catilinae delicias, alter Cethegi consobrinum fuisse diceret. Hanc ego vim, pontifices, hoc scelus, hunc furorem meo corpore opposito ab omnium bonorum cervicibus depuli, omnemque impetum discordiarum, omnem diu collectam vim improborum, quae inveterata compresso odio atque

emendation of those who think that we ought to read 'internecivum;' and he is convinced that Cicero wrote it. But as I am convinced that Cicero did not write the oration, I am content with 'intestinum.'

Something is lost at the end of the chapter which would complete the comparison between 'hostium urbes' and the house of Cicero. We see here the rhetorician's art, or rather his want of art. He would make a comparison between the destruction of a hostile city and Cicero's house, a comparison in itself absurd and insipid. He prepares the way for this as far back as 'Sed quid ego vestram crudelitatem;' which is the Prologue to this impotent conclusion. For the benefit of those, if there are any, who see only words when they read, and pay no regard to the sense and the manner in which a thing is said, I give Wolf's remark: "Nunc lectores nobis omnem harum inanium sententiarum perpetuitatem animo complectantur inde a 'Sed quid ego.' Nihil attinet (inquit) de vestra crudelitate queri—non enim vos arbitror tam cupidos fuisse columnarum et valvarum mearum—neque porro illa manus Catilinae bonis meis famem suam explere (ea ad se trahere) voluit—sed, ut capitales hostes non aviditate praedae etc. Num potest ebrius homo dissolutius scribere?"

24. *Nihil erat latum*] He returns to the thing again. He has said it before; and all is to be said over again.—'senatusconsulta volabant:' 'senatus consules vocabant,' P., out of which Baiter has made 'senatum consules vocabant.' But if the object is to make the writer speak sense, Nägelsbach's emendation 'senatum consules non vocabant' is better. The whole passage is wonderful. Compare with it the end of the seventh chapter of the oration Quum Senatui. "In puras quisquilias incidimus. Domus et villa, nescio quibus machinis, *ablatae* sunt ad duo consules; columnae ex domo asportatae: ex villa non solum ornamenta, sed et instrumenta, sed et ipsae arbores asportatae: (quid jam reliqui censes?) *ipsa villa* funditus eversa, ac ne hoc quidem factum est cupiditate praedae, (non multum enim offerebat res angusta domi) sed solo incredibili amore vindictae" (Wolf).

alter se Catilinae delicias,] Does any body believe that the consul said so, or that Cicero ever said this? (Quum Senatui, c. 4.)

Hanc ego vim, pontifices,] Here he addresses the Pontifices. At the beginning of the chapter he is speaking to Clodius: 'eram etiam tuo judicio.' This is not the way in which a man pleads his case before a court which is sitting to pass judgment on it.

tacito jam erumpebat nacta tam audaces duces, excepi meo corpore. In me uno consulares faces jactae manibus tribuniciis, in me omnia quae ego quondam rettuderam conjurationis nefaria tela adhaeserunt. Quod si, ut multis fortissimis viris placuit, vi et armis contra vim decertare voluissem, aut vicissem cum magna internecione improborum, sed tamen civium, aut interfectis bonis omnibus, quod illis optatissimum fuisset, una cum re publica concidissem. Videbam vivo senatu populoque Romano celerem mihi summa cum dignitate reditum; nec intelligebam fieri diutius posse ut mihi non liceret esse in ea re publica quam ipse servassem. Quod si non liceret, audieram et legeram clarissimos nostrae civitatis viros se in medios hostes ad perspicuam mortem pro salute exercitus injecisse; ego pro salute universae rei publicae dubitarem hoc meliore conditione esse quam Decii, quod illi ne auditores quidem suae gloriae, ego etiam spectator meae laudis esse potuissem? XXV. Itaque infractus furor tuus inanes faciebat impetus; omnem enim vim omnium sceleratorum acerbitas mei casus exceperat: non erat in tam immani injuria tantisque ruinis novae crudelitati locus. Cato fuerat proximus. Quid ageres non erat,

nacta] 'Nancta,' Baiter. For 'nacta' there is a reading 'in actum.'

Videbam . . . reditum;] This does not appear to be Latin. A word may have dropped out. Cicero himself did not expect to return so soon. (Quum Populo, c. 6.)

clarissimos . . . viros] The Decii are mentioned in the oration Pro P. Sestio, c. 21.—In Wolf's edition and in others, part of this sentence stands thus: "injecisse: ego . . . dubitarem? hoc meliore conditione quam Decii," &c. The addition of the word 'esse' shows that the pointing should be different, but though we thus remove one of Wolf's objections, we make nonsense, and that is some evidence that we have got the genuine text. "I had heard and read (he had even read) of most illustrious men sacrificing their lives for their army; should I for the safety of the state hesitate to be (for that is the meaning; it does not mean, should I doubt if I was) so far in a better condition than the Decii, inasmuch as they could not (have been?) hearers of their own fame, I might have been even a spectator of mine?" Here again we see the trifler. He wishes to make a parallel between himself and the Decii; and accordingly they must devote themselves for the safety of the army, their devotion in fact being for the safety of the state, in order that he may do what for the safety of the state? devote himself? no; that he may be in a much better condition than they were, who could not hear their own praises, while he might have been even a spectator of his glory.—Such a trivial, tasteless comparison is the work of a man without understanding. Wolf suggests that he might have been a spectator of it "in scena, in tragoedia, agente fortasse aliquo Aesopo."

25. *infractus . . . tuus*] He begins (Hanc ego vim, pontifices) by addressing the Pontifices, and he ends with being the spectator of his own glory (spectator meae laudis). With an 'itaque' (Itaque infractus furor tuus) he turns to Clodius. He is arguing for his house before the Pontifices, and continually addressing Clodius. There is no difficulty in seeing how the writer has been led to do this. He knew that Cicero often did abuse Clodius, and he knew that he had maintained his claim for his house before the Pontifices; and he may have read the speech, if Cicero published it. He put the abuse and the argument together, and made Cicero utter a Philippic against Clodius and address a legal argument to the Pontifices at the same time.

Quid ageres . . . amandas esse.] There

ut qui modus moribus fuerat, idem esset injuriae. Quid, posses extrudere ad Cypriam pecuniam. Praeda perierit; alia non deerit; hanc modo amandas esse. Sic M. Cato invisus quasi per beneficium Cyprum relegatur. Ejiciuntur duo quos videre improbi non poterant, alter per honorem turpissimum, alter per honestissimam calamitatem. Atque ut sciatis non hominibus istum, sed virtutibus hostem semper fuisse, me expulso, Catone amandato, in eum ipsum se convertit, quo auctore, quo adjutore in contionibus ea quae gerebat omnia quaeque gesserat se et fecisse et facere dicebat: Cn. Pompeium, quem omnium judicio longe principem esse civitatis videbat, diutius furori suo veniam daturum non arbitrabatur. Qui ex ejus custodia per insidias regis amici filium, hostem, captivum, surripuisset, et ea injuria virum fortissimum lacessisset, speravit iisdem se copiis cum illo posse confligere quibuscum ego noluissem bonorum periculo dimicare, et primo quidem adjutoribus consulibus: postea fregit foedus Gabinius; Piso tamen in fide mansit. Quas iste tum caedes, quas lapidationes, quas fugas fecerit, quam facile ferro quotidianisque insidiis, quum jam a firmissimo robore copiarum suarum relictus esset, Cn. Pompeium foro curiaque privarit domumque conjecerit vidistis. Ex quo judicare potestis quanta vis illa fuerit oriens et congregata, quum haec Cn. Pompeium terruerit jam distracta et exstincta.

is no use in repeating all that has been proposed for the cure of this corrupt passage. The passage, as Hotmann gives it from a 'vetus liber,' is somewhat more intelligible; but I forbear to copy it out. It is printed in some editions.

quo auctore,] Compare Pro Sestio, c. 17: "omnibus in contionibus illa furia clamabat se quae faceret contra salutem meam facere auctore Cn. Pompeio, clarissimo viro mihique et nunc et quoad licuit amicissimo."

regis...filium,] The son of Tigranes whom Pompeius brought to Rome after his wars with Mithridates and Tigranes. "For after Clodius had ejected Cicero and sent off Cato to Cyprus under colour of giving him a command, and Caesar was gone to Gaul, and Clodius saw that the people were devoted to him as he was doing every thing and passing all his measures to please them, he immediately attempted to repeal some of the regulations of Pompeius, and seizing the person of the captive Tigranes he kept him in his own house, and he instituted prosecutions against the friends of Pompeius, and so made trial of the power of Pompeius by attacking his friends" (Plutarch, Pompeius, c. 48; Dion Cassius, 38. c. 30; and Asconius ad Milon. c. 14).

distracta et exstincta.] Markland cannot understand how a 'vis exstincta' could have terrified Pompeius: and he also asks how a 'vis' could be 'exstincta,' which had first become 'distracta,' divided by Gabinius passing over to the side of Pompeius. I suppose there was first a 'distractio' of the 'vis' made by Gabinius going over to Pompeius, and this 'vis' was 'exstincta' as a 'vis' opposed to Pompeius. But the other half remained. But I do not think that the writer could have found out his own meaning. He rather means that the 'vis' was 'distracta' and also 'exstincta:' in other words there was none; and yet Pompeius was alarmed by it. It is true that there were terrible disturbances after Gabinius left the party of Clodius; there was murder and stone-throwing; and Clodius easily (facile) kept Pompeius from the Forum and Curia, and shut him up in his house. The 'vis' by which all this was done is called 'distracta et exstincta.' But the writer's purpose is not obscure. He was labouring

XXVI. Haec vidit in sententia dicenda Kalendis Januariis vir prudentissimus, et quum rei publicae, quum mihi, tum etiam veritati amicissimus, L. Cotta, qui legem de meo reditu ferendam non censuit; qui me consuluisse rei publicae, cessisse tempestati, amiciorem vobis ceterisque civibus quam mihi [ac meis] exstitisse, vi, armis, dissensione hominum ad caedem instituta novoque dominatu pulsum esse dixit; nihil de meo capite potuisse ferri; nihil esse scriptum aut posse valere; omnia contra leges moremque majorum temere, turbulente, per vim, per furorem esse gesta: quod si illa lex esset, nec referre ad senatum consules nec sententiam dicere sibi licere, quorum utrumque quum fieret, non oportere ut de me lex ferretur decerni, ne illa quae nulla esset esse lex judicaretur. Sententia verior, gravior, melior, utilior rei publicae nulla esse potuit. Hominis enim scelere et furore notato similis a re publica labes in posterum demovebatur. Neque hoc Cn. Pompeius, qui ornatissimam de me sententiam dixit, vosque pontifices, qui me vestris sententiis auctoritatibusque defendistis, non vidistis, illam esse nullam atque esse potius flammam temporis, interdictum sceleris, vocem furoris; sed prospexistis, ne quae popularis in nos aliquando invidia redundaret, si sine populi judicio restituti videre-

at antithesis, and he must find the antithetics of 'oriens et congregata,' whether the antithetics made sense or nonsense. He has already said: "Itaque infractus furor tuus inanes faciebat impetus; omnem enim vim omnium sceleratorum acerbitas mei casus exceperat."

26. *Haec vidit*] "Quid vidit? nos profecto nihil nisi aegri somnia vidimus" (Wolf). This is taken from the oration Pro Sestio, c. 34: "Tum princeps rogatus sententiam L. Cotta dixit," &c. I add Klotz's note. It is just that the Declamator should be heard by his counsel. "One cannot help being surprised that Wolf again did not choose to see any connexion in Cicero's language, though here the closest unity of thought is perceptible. Cicero has just said: 'Ex quo judicare potestis, quanta vis illa fuerit oriens et congregata,' &c.; and the same, he continues, L. Cotta saw (vidit), when he maintained that those measures of Clodius must not be considered as a Lex, and that they ought to thank Cicero for having given way at that time to overpowering force, and having spared the state. Can any thing be in closer connexion than this language of Cicero? What will not prejudice do?" Yes, what will it not do?

dissensione] See the oration Quum Populo, c. 3, note on 'discessi.' 'Dissensione . . . instituta' is very like nonsense.—'nihil esse scriptum:' 'proscriptum' G. M., 'inscriptum' P., 'nihil esse jure scriptum' Lambinus, Baiter.—'ad senatum consules:' 'ad senatum consulibus,' Lambinus, Baiter: but this is not the usage of this writer; who says, c. 14: "Cur enim quisquam vellet tribunum plebis se fieri non licere?" and the end of c. 19.

illam esse nullam] He means 'legem;' and Lambinus put it in. Wolf asks whoever said that an abominable Lex was 'flamma temporis, interdictum sceleris?' But perhaps his judgment is wrong here. In the oration In Pisonem, c. 8, he says that there is 'interdicta crudelitatis tuae;' but that means the consul's edict; and besides this, the expression is different, and Wolf has not quoted it correctly: "tamen id his non licere per interdicta potestatis tuae crudelitatis erat non ferendae." 'Interdicta potestatis tuae' is a different thing. Wolf does not understand how a Lex can be called an 'interdictum.' It can only be explained by the fact that the term 'interdictum' was used in the Lex; and I think that this may be a sufficient answer to Wolf's objection.

mur. Eodemque consilio M. Bibuli, fortissimi viri, senatus sententiam secutus est, ut vos de mea domo statueretis; non quo dubitaret quin ab isto nihil legibus, nihil religionibus, nihil jure esset actum, sed ne quis oriretur aliquando in tanta ubertate improborum, qui in meis aedibus aliquam religionem residere diceret. Nam legem quidem istam nullam esse, quotiescumque de me senatus sententiam dixit, toties judicavit, quoniam quidem scripto illo istius sententiam dicere vetabatur. Atque hanc rem par illud simile Piso et Gabinius vidit. Homines legum judiciorumque metuentes, quum frequentissimus senatus eos ut de me referrent quotidie flagitaret, non se rem improbare dicebant, sed lege istius impediri. Erat hoc verum. Nam impediebantur, verum ea lege quam idem iste de Macedonia Syriaque tulerat.

XXVII. Hanc tu, P. Lentule, neque privatus neque consul legem esse unquam putasti. Nam tribunis plebis referentibus sententiam de me designatus consul saepe dixisti: ex Kalendis Januariis, quoad perfecta res est, de me rettulisti, legem promulgasti, tulisti; quorum tibi, si esset illa lex, nihil liceret. At etiam Q. Metellus, collega tuus, clarissimus vir, quam legem esse homines alienissimi a P. Clodio judicarent, Piso et Gabinius, eam nullam esse frater P. Clodii, quum de me ad senatum tecum una rettulit, judicavit. Sed vero isti, qui Clodii leges timuerunt, quemadmodum ceteras observarunt? Senatus quidem, cujus est gravissimum judicium de jure legum, quotiescumque de me consultus est, toties eam nullam esse judicavit. Quod idem tu, Lentule, vidisti in ea lege quam de me tulisti. Nam non est ita latum ut mihi Romam venire liceret, sed UT VENIREM. Non enim voluisti, id quod licebat, ferre ut liceret; sed me ita esse in re publica, magis ut arcessitus

scripto illo] See Quum Senatui, c. 4: "Quum a tr. pl. vetaretur, quum praeclarum caput recitaretur," &c.—'Atque hanc rem:' "et hic licet interrogare *quamnam rem?* Etsi enim aliqua ratio reddi potest hujus juncturae, tamen eam nimis negligenter factam esse, attente legenti apparebit" (Wolf).—'Homines legum:' comp. Quum Senatui, c. 2: "Nam consules modesti legumque metuentes." He is fond of repeating his good things. He says again in the next chapter (c. 27): "Senatus quidem . . . toties eam nullam esse judicavit."

27. *consul saepe dixisti:*] He says, Pro Sestio, c. 32: "P. Lentulus . . . tribunisque pl. octo referentibus praestantissimam de me sententiam dixit." Comp. Quum Senatui, c. 2 and 4. Here it is 'saepe.' He always multiplies, as feeble men do. Above he said 'frequentissimus senatus . . . quotidie;' but as Wolf says, the Senate did not meet every day. However he may mean every day that they did meet.

de jure legum,] 'On the law of laws,' that is, on the legality of Leges. See c. 14, note on 'legitimum jus,' and c. 15; also De Harusp. Respons. c. 23, on the passage in the Pro Milone, c. 7.

non est ita latum] Wolf remarks that Cicero himself says nothing about this. The end of this clause, 'ut arcessitus . . . restitutus,' is very feeble. How could he be said 'ad administrandam rem publicam arcessitus?'

imperio populi Romani viderer quam ad administrandam civitatem restitutus.

Hunc tu etiam, portentosa pestis, exsulem appellare ausus es, quum tantis sceleribus esses et factis notatus, ut omnem locum quo adisses exsilii simillimum redderes? Quid est enim exsul? Ipsum per se nomen calamitatis, non turpitudinis. Quando igitur est turpe? re vera quum est poena peccati, opinione autem hominum etiam si est poena damnati. Utrum igitur peccato meo nomen subeo an re judicata? Peccato? Jam neque tu id dicere audes, quem isti satellites tui felicem Catilinam nominant, neque quisquam eorum qui solebant. Non modo jam nemo est tam imperitus qui ea quae gessi in consulatu peccata esse dicat; sed nemo est tam inimicus patriae qui non meis consiliis patriam conservatam esse fateatur. XXVIII. Quod enim est in terris commune tantum tantulumve consilium, quod non de meis rebus gestis ea quae mihi essent optatissima et pulcherrima judicarit? Summum est populi Romani populorumque et gentium omnium ac regum consilium senatus: decrevit, ut omnes qui rem publicam salvam esse vellent ad me unum defendendum venirent, ostenditque nec stare potuisse rem publicam, si ego non fuissem, nec futuram esse ullam, si non redissem. Proximus est huic dignitati ordo equester. Omnes omnium publicorum societates de meo consulatu ac de meis rebus gestis amplissima atque ornatissima decreta fecerunt. Scribae, qui nobiscum in rationibus monumentisque publicis versantur, non obscurum de meis in rem publicam beneficiis suum judicium decretumque esse voluerunt. Nullum est in hac urbe collegium, nulli pagani aut montani, quoniam plebei quoque urbanae

factis] Baiter has altered this to 'flagitiis,' for 'factis' after 'sceleribus' has no meaning; but that may be the author's meaning. "Without reason people have found a difficulty in the words 'et factis.' 'Facta' is as intelligible here as in Verr. ii. 4. c. 26: 'Nullo modo possum omnia istius facta aut memoria complecti'" (Klotz). But 'factis notatus,' and after he had been 'sceleribus notatus.' That is the point.—'Quid enim est exsul?' see Pro Caecina, c. 34, Vol. II.; and the Paradoxa, iv.

qui solebant.] "Antequam essem restitutus" (Manutius).

28. *commune tantum*] See Vol. I. Verr. ii. 1. c. 38. Compare Pro Sestio, c. 14, "Erat igitur," where it is all said in better taste.

publicorum societates] Some editions have 'publicanorum,' but there seems to be no authority for it. The word 'publica' sometimes means 'vectigalia' (Vol. I. Verr. ii. 3. c. 71, note; Seneca, Ep. 101; perhaps Horace, Ep. i. 1. v. 77). Graevius asks who can tolerate '*vectigalium* aut quod idem est *publicorum societates* pro *publicanorum*.' Cicero himself, who says, Pro Sestio, c. 14, "nulla Romae societas vectigalium."

Scribae,] See Vol. I. Verr. ii. 3. c. 79; In Cat. iv. c. 7. Markland finds fault with the 'scribae' being mentioned here. There is nothing in his objection. There is more in what Wolf observes, that they are not mentioned in the passage in the Pro Sestio, c. 14.

nulli pagani aut montani,] Markland found a difficulty here; and there seems to be some, for the writer speaks of the 'ur-

majores nostri conventicula et quasi concilia quaedam esse voluerunt, qui non amplissime non modo de salute mea, sed etiam de dignitate decreverint. Nam quid ego illa divina atque immortalia municipiorum et coloniarum et totius Italiae decreta commemorem, quibus tamquam gradibus mihi videor in caelum ascendisse, non solum in patriam revertisse? Ille vero dies qui fuit, quum te, P. Lentule, legem de me ferentem populus Romanus ipse vidit, sensitque quantus et quanta dignitate essem? Constat enim nullis umquam comitiis campum Martium tanta celebritate, tanto splendore omnis generis hominum, aetatum, ordinum floruisse. Omitto civitatum nationum, provinciarum, regum, orbis denique terrarum de meis in omnes mortales meritis unum judicium unumque consensum; adventus meus atque introitus in urbem qui fuit? Utrum me patria sic accepit ut lucem salutemque redditam sibi ac restitutam accipere debuit, an ut crudelem tyrannum, quod vos Catilinae gregales de me dicere solebatis? Itaque ille unus dies, quo die me populus Romanus a porta in Capitolium, atque inde domum sua celebritate laetitiaque comitatum honestavit, tantae mihi jucunditati fuit ut tua mihi conscelerata illa vis non modo non propulsanda, sed etiam emendanda fuisse videatur. Quare illa calamitas, si ita est appellanda, excussit hoc genus totum maledicti, ne quisquam jam audeat reprehendere consulatum meum tot, tantis, tam ornatis judiciis, testimoniis, auctoritatibus comprobatum. XXIX. Quod si in isto tuo maledicto probrum non modo mihi nullum objectas, sed etiam laudem illustras meam, quid te aut fieri aut fingi dementius potest? Uno enim maledicto bis a me patriam servatam esse concedis; semel, quum id feci, quod omnes non negent immortalitati, si fieri

bana plebs' as inhabiting the hills (montes) of Rome. But as Graevius remarks, the richer people in Rome generally lived on the 'montes.' Gesner quotes Varro, L. L. vi. 3, who is speaking of the festival called Septimontium, which he calls 'feriae non populi sed montanorum modo.' But this does not explain the 'pagani.' Manutius says that the 'pagani' are the inhabitants of the 'pagi' out of the city, but in the Ager Romanus, and they were called 'plebs urbana' because they were reckoned in the census among the 'urbanae tribus;' for the 'plebs rustica' which was reckoned among the 'rusticae tribus,' was much more honourable. The original passage, as it seems, in the Pro Sestio, c. 14, is this: "nullum erat Italiae municipium . . . nullum collegium aut concilium aut omnino aliquod commune consilium," &c.

ferentem . . . essem?] C., 'ferente' and 'esset' for 'essem' Faernus, Baiter. The reason for the alteration is plain; but it may stand as it is in the MSS.—'civitatum:' 'civitatium' P. G., Baiter.

Itaque ille unus dies,] Pro Sestio, c. 60: "Hunc ego reditum repudiarem, qui ita florens fuit ut verear ne qui me studio gloriae putet idcirco exisse ut ita redirem?"

emendanda] C. The common texts have 'emenda.' Mommsen proposes 'invitanda.' —'excussit:' 'exussit,' P., Baiter, who refers to Cicero (Brutus, c. 4): "exustusque flos siti veteris ubertatis exaruit;" where 'exustus' is very appropriate.

29. *non negent*] 'negent' P. G. V., 'concedent' Halm.—'meo corpore excepi:' repeated as usual (c. 24).

potest, mandandum, tu supplicio puniendum putasti; iterum, quum tuum multorumque praeter te inflammatum in bonos omnes impetum meo corpore excepi, ne eam civitatem, quam servassem inermis, armatus in discrimen adducerem.

Esto, non fuit in me poena ulla peccati: at fuit judicii. Cujus? quis me umquam ulla lege interrogavit? quis postulavit? quis diem dixit? Potest igitur damnati poenam sustinere indemnatus? est hoc tribunicium, est populare? quamquam ubi tu te popularem, nisi quum pro populo fecisti, potes dicere? Sed quum hoc juris a majoribus proditum sit, ut nemo civis Romanus aut [libertatem] aut civitatem possit amittere, nisi ipse auctor factus sit, quod tu ipse potuisti in tua caussa discere—credo enim, quamquam in illa adoptione legitime factum est nihil, tamen te esse interrogatum, auctorne esses, ut in te P. Fonteius vitae necisque potestatem haberet, ut in filio—quaero si aut negasses aut tacuisses, si tamen id xxx curiae jussissent, num id jussum esset ratum? Certe non. Quid ita? quia jus a majoribus nostris, qui non ficte et fallaciter populares, sed vere et sapienter fuerunt, ita comparatum est ut civis Romanus libertatem nemo possit invitus amittere. Quin etiam si decemviri sacramentum in libertatem injustum judicassent, tamen, quotiescumque vellet quis, hoc in genere solo rem judicatam referre posse voluerunt; civitatem vero nemo umquam ullo populi jussu amittet invitus. XXX. Qui cives Romani in colonias Latinas proficiscebantur, fieri non poterant Latini, ni erant auctores facti

lege interrogavit?] "Neminem unum civem tantum eminere debere ut legibus interrogari non possit" (Livy, 38. c. 50).

quum pro populo] 'Pro populo facere' is to sacrifice for the people; as in Cicero's letters to Atticus (i. 12, 13). The allusion is to Clodius disturbing the celebration of the mysteries of the Bona Dea. 'Pro' is not in C.; but it is necessary. I do not know what is the authority for 'libertatem.' Baiter's readings are 'inpietatem' P. V., 'impietatem' G. M., out of which Mommsen has ingeniously made 'sui potestatem,' which Baiter has in his text. He refers to Gaius ii. 147: "si modo defunctus testator et civis Romanus et suae potestatis mortis tempore fuerit." But this will not prove that the Romans said 'sui potestatem amittere.' —'adoptione:' 'adoptatione' P. G. V., Baiter.

auctorne esses,] These are the words in the formula of 'adrogatio' (Gellius, v. 19) which was effected by a Lex Curiata: "Velitis jubeatis ut L. Valerius L. Titio tam jure legeque filius (sibi) siet, quam si ex eo patre matreque familias ejus natus esset, utique ei vitae necisque in eo potestas siet, uti patri endo filio est, haec ita ut dixi, ita vos, Quirites, rogo."

si decemviri . . . judicassent,] He is alluding to a 'caussa liberalis,' a case in which the freedom of a person was in question. "Aliquem de libertate litigantem liberum non esse judicassent" (Manutius), who refers to the case of the woman of Arretium (Pro Caecina, c. 33, Vol. II.): "non posse nostrum sacramentum justum judicare," and "sacramentum nostrum justum judicaverunt." From this we learn that the expression is 'sacramentum justum' or 'injustum judicare.' For 'referre' Faernus has 'referri.' This 'rem judicatam referre' is supposed to mean that the Decemviri allowed a case that was once settled to be tried again.

'Sacramentum' is explained in the notes to the oration Pro Caecina, c. 33.

30. *Qui cives Romani*] See Pro Caecina, c. 33 and the notes, Vol. II.

Latini, ni erant] '*Latini nisi erant* Klotzius; *latini* || *erant* (post v. *latini* syl-

nomenque dederant. Qui erant rerum capitalium condemnati, non prius hanc civitatem amittebant quam erant in eam recepti, quo vertendi, hoc est mutandi, soli caussa venerant. Id autem ut esset faciundum, non ademptione civitatis, sed tecti et aquae et ignis interdictione faciebant. Populus Romanus L. Sulla dictatore ferente comitiis centuriatis municipiis civitatem ademit; ademit iisdem agros. De agris ratum est, fuit enim populi potestas: de civitate ne tamdiu quidem valuit quamdiu illa Sullani temporis arma valuerunt. An vero Volaterranis, quum etiam tum essent in armis, L. Sulla victor re publica recuperata comitiis centuriatis civitatem eripere non potuit, hodieque Volaterrani, non modo cives, sed etiam optimi cives fruuntur nobiscum simul hac civitate; consulari homini P. Clodius eversa re publica civitatem adimere potuit concilio advocato, conductis operis non solum egentium, sed etiam servorum, Fidulio principe, qui se illo die confirmat Romae non fuisse? Quod si non fuit, quid te audacius qui ejus nomen incideris? quid desperatius, qui ne ementiendo quidem potueris auctorem adumbrare meliorem? Sin autem is primus scivit, quod facile potuit qui propter inopiam tecti in foro pernoctasset, cur non juret se Gadibus fuisse, quum tu te fuisse Interamnae probaveris? Hoc

labam *ni* in marg. supplevit secunda, sed antiqua manus) P.; *latini. hi erant* G. M.; *tatini hii erant* V.' (Baiter), who has followed Klotz, whose correction seems certain, unless we take *ni*. The common reading is 'Latini, qui non erant,' on which Wolf says, "Gravis sententia: Non sunt in colonias profecti, qui nomen non dederunt, h. e. qui noluerunt proficisci in colonias, qui non sunt profecti."—'vertendi, hoc est mutandi:' compare Pro Caecina, c. 34: "Nam qui volunt," &c.

interdictione faciebant.] 'interdictione adigebantur,' Halm, Baiter; but this is rather too much to accept, though the other reading may be as Wolf calls it 'ineptissima stribligo.'

civitatem ademit;] See Pro Caecina, c. 35, and the notes.—'An vero:' the emendation of Lambinus for 'Hanc vero.'—'optimi cives:' this would mean the best citizens, but he probably means 'optimo jure cives,' as Wolf observes, 'cives optima lege;' but he should have written 'jure.' See Vol. I. Verr. ii. 3. c. 91, note on 'optimo jure.'

ejus . . . incideris?] That is, caused it to be cut on the bronze (aes), for the Plebiscita as well as the Leges were cut on bronze, and the name of him was put at the head (praescribebatur) who voted first in the Praerogativa. It has been proposed to write 'qui in aes ejus nomen incideris.' The passage in the oration Pro Plancio, c. 14, is this: "Nam quod primus scivit legem de publicanis tum quum vir amplissimus consul id illi ordini per populum dedit, quod per senatum si licuisset dedisset, si in eo crimen est quia suffragium tulit, quis non tulit publicanus? si, quia primus scivit, utrum id sortis esse vis an ejus qui illam legem ferebat? Si sortis, nullum crimen est in casu: si consulis, splendor etiam Planci, hunc a summo viro principem esse ordinis judicatum." It appears then that when it was determined by lot what Tribus or Centuria should vote first, the proposer of the Lex could call on whom he pleased of this Tribus or Centuria to vote first.

qui propter inopiam . . . pernoctasset,] 'qui' is added by Baiter. The MSS. which he cites have 'pernoctasset' or 'pernoctasse.' This poor wretch slept where he could in the porches, in the forum, as many do now.

Interamnae] When Clodius was tried for getting into Caesar's house while the women were performing the sacrifices of the Bona Dea, he endeavoured to prove

tu igitur homo popularis jure munitam civitatem et libertatem nostram putas esse oportere, ut, si tribuno plebis rogante VELITIS JUBEATISNE, Fidulii centum se velle et jubere dixerint, possit unus quisque nostrum amittere [civitatem]? Tum igitur majores nostri populares non fuerunt, qui de civitate et libertate ea jura sanxerunt, quae nec vis temporum nec potentia magistratuum nec res judicata nec denique universi populi Romani potestas, quae ceteris in rebus est maxima, labefactare possit. At tu etiam, ereptor civitatis, legem de injuriis publicis tulisti Anagnino nescio cui Menullae per gratiam, qui tibi ob eam legem statuam in meis aedibus posuit; ut locus ipse in tanta tua injuria legem et inscriptionem statuae refelleret; quae res municipibus Anagninis [ornatissimis] multo majori dolori fuit quam quae idem ille gladiator scelera Anagniae fecerat.

XXXI. Quid, si ne scriptum quidem umquam est in ista ipsa rogatione quam se Fidulius negat scivisse, tu autem, ut acta tui praeclari tribunatus hominis dignitate cohonestes, auctorem amplecteris—sed tamen si nihil de me tulisti, quo minus essem non modo in civium numero, sed etiam in eo loco, in quo me honores populi Romani collocaverunt, tamenne eum tua voce violabis, quem post nefarium scelus consulum superiorum tot vides judiciis senatus, populi Romani, Italiae totius honestatum, quem ne tum quidem quum aberam negare poteras esse tua lege senatorem? Ubi enim tuleras ut mihi aqua et igni interdiceretur? quod Gracchus de P. Popillio, Saturninus de Metello tulit, homines seditiosissimi de optimis ac fortissimis civibus: non, ut esset interdictum, quod

that he was not in Rome at the time, but at Interamna. So Fidulius, who for some reason is said or supposed not to wish it to be thought that he had any thing to do with this affair, might swear that he was at the world's end, for Gades was one of the limits of the Roman world.

> "Omnibus in terris quae sunt a Gadibus usque
> Auroram et Gangem." (Juvenal, x. 1.)

Tum igitur] Garatoni was offended with 'Tum' placed as it is here: "in principio posita ita, ut eam fere hodie ponunt, quum dicere volunt, *hoc si ita est*" (Wolf).—'potentia magistratuum:' Gulielmius, a good critic, suggested 'impotentia,' which would be an improvement; for if the writer meant the 'authority,' he should have said 'potestas.'—'labefactare possit:' Ernesti altered 'possit' to 'posset,' and so it should be.

de injuriis publicis] Nothing more is known of this affair and of Menulla.

31. *amplecteris*] M. V., 'amplexeris' P. G., Baiter.—'Gracchus:' C. Gracchus, B.C. 123, proposed a Lex against P. Popillius Laenas, who in his consulship had directed the 'quaestiones' against the partizans of Ti. Gracchus. This proceeding against Popillius followed Gracchus' Lex "ne de capite civium Romanorum injussu vestro judicaretur" (Pro C. Rabirio, c. 4, Vol. II.). Gellius (xi. 13) has preserved a few of Gracchus' words: "Quae vos cupide per hosce annos appetistis atque voluistis, ea si temere repudiaritis, abesse non potest quin aut olim cupide appetisse aut nunc temere repudiasse dicamini." Metellus is Metellus Numidicus (Quum Senatui, c. 15).

ferri non poterat, tulerunt, sed ut interdiceretur. Ubi cavisti ne meo me loco censor in senatum legeret? quod de omnibus, etiam quibus damnatis interdictum est, scriptum est in legibus. Quaere hoc ex Clodio, scriptore legum tuarum; jube adesse: latitat omnino, sed si requiri jusseris, invenient hominem apud sororem tuam occultantem se capite demisso. Sed si patrem tuum, civem medius fidius egregium dissimilemque vestri, nemo umquam sanus exsulem appellavit, qui, quum de eo tribunus plebis promulgasset, adesse propter iniquitatem illius Cinnani temporis noluit, eique imperium est abrogatum; si in illo poena legitima turpitudinem non habuit propter vim temporum, in me, cui dies dicta numquam est, qui reus non fui, qui numquam sum a tribuno plebis citatus, damnati poena esse potuit, ea praesertim, quae ne in ipsa quidem rogatione praescripta est? XXXII. At vide, quid intersit inter illum iniquissimum patris tui casum et hanc fortunam conditionemque nostram. Patrem tuum, civem optimum, clarissimi viri filium, qui si viveret, qua severitate fuit, tu profecto non viveres, L. Philippus censor avunculum suum praeteriit in recitando senatu; nihil enim poterat dicere, quare rata non essent quae erant acta in ea re publica, in qua se illis ipsis temporibus censorem esse voluisset. Me L. Cotta, homo censorius, in senatu juratus dixit, se, si censor tum esset, quum ego aberam, meo loco senatorem recitaturum fuisse. Quis in meum locum judicem subdidit? quis meorum

occultantem] Cicero said something as bad as this in the senate about Clodia, Clodius' sister and the consul Metellus' wife (Ad Att. ii. 1): "Non consulare, inquies, dictum: fateor."

patrem tuum . . . vestri,] Appius Claudius was praetor B.C. 89 (Pro Archia, c. 5). When he says 'vestri,' he includes P. Clodius' brother, Appius Clodius. Appius the father was deprived of his 'imperium' in the troublesome times of Cinna, as it is said here. Drumann (Geschichte Roms, ii. p. 184) makes him the consul of B.C. 79. See De Harusp. cc. 1, 12.

32. *in senatu juratus*] What occasion had Cotta for saying this on oath (juratus)? L. Cotta was censor B.C. 63. There was no 'lustrum' during Cicero's exile. Cotta is said to have said that if he had been censor when Cicero was absent, he would have read his name in the list of senators, would have acknowledged him to be a senator still. That would have been regular: he might have done it, if he chose. 'Recitare' is the proper word. But in c. 31 he says: "ne meo me loco censor in senatum legeret;" which expression applies to a man being chosen as a member of the senate (Livy, 23. c. 23). He had said a little before that Clodius could not deny that he was a senator, though he was not at Rome.

Quis in meum locum] Manutius says that the first 'decuria' of the judices at the beginning of the year was taken from the 'ordo senatorius,' according to the Aurelia Lex. It would have been much more to the purpose if he had asked, Who was put in my place? But 'subdidit' is the wrong word (Vol. I. Verr. Act. 1. c. 10).—'Discessu meo:' he means in his absence, but the words mean 'when I went away.' Compare Pro Sestio, c. 60: "omnia discessu meo." It was usual for a Roman to make some mention of his nearest friends in his testament, which was a mark of respect. Klotz defends the expression 'discessu meo' by comparing the passage in the De Legibus (ii. 17): "Omnia tum perditorum civium scelere discessu meo religionum jura polluta sunt: vexati nostri lares familiares: in

amicorum testamentum discessu meo fecit, qui mihi non idem tribuerit quod et si adessem? quis me non modo civis, sed socius recipere contra tuam legem et juvare dubitavit? Denique universus senatus multo ante quam est lata lex de me, Gratias agendas censuit civitatibus iis quae M. Tullium—tantumne? immo etiam, Civem optime de re publica meritum recepissent. Et tu unus pestifer civis eum restitutum negas esse civem, quem ejectum universus senatus non modo civem, sed etiam egregium civem semper putavit? At vero, ut annales populi Romani et monumenta vetustatis loquuntur, Kaeso ille Quintius, et M. Furius Camillus, et M. Servilius Ahala, quum essent optime de re publica meriti, tamen populi incitati vim iracundiamque subierunt, damnatique comitiis centuriatis quum in exsilium profugissent, rursus ab eodem

eorum sedibus exaedificatum templum Licentiae: pulsus a delubris is qui illa servarat." But this passage does not seem to me to prove that 'discessu meo' is rightly used by the Declamator. Klotz adds that Cicero would not admit that he was 'in exilio,' and that 'discessu meo,' which he says means 'during the time of my going away,' not 'at the time of my going away,' is proper, and expresses his voluntary absence. But there is a very simple way of expressing that without using 'discessu meo' to signify 'during the time of my going away.'

Klotz says that if Cicero had been legally banished he would have been on the same footing as one who was not a citizen, and that no Roman could have made Cicero his 'heres.' This is said to explain the matter about the will. He quotes as proof Cicero, Pro Archia, c. 5. As usual his law is all confusion.—'quod et si:' Baiter omits 'et.'

quis me . . . dubitavit?] Cicero himself will answer this. He says of C. Vergilius, the praetor of Sicily: "Cum ipsa paene insula mihi sese obviam ferre vellet, praetor ille . . . me in Siciliam venire noluit" (Pro Plancio, c. 40; Plutarch, Cicero, c. 32).

lata lex de me,] He means the Lex about his restoration; but he should have said it.—'Gratias agendas:' Markland says that the man seems to have confounded two different letters of the senate; one of which recommended Cicero to the care of all whom he came among, and another in which the senate thanked them for doing what they had been asked to do. The words of the former letter are preserved in the oration In Pisonem, c. 15, where he is entitled 'civem conservatorem rei publicae.' The other letter is mentioned in the oration Pro Sestio, c. 60; and by Plutarch (Cicero, c. 33). Markland, who is very acute in seeing many things, observes that here Cicero is merely called 'civis optime de re publica meritus,' an expression which would be applied to many persons as a matter of course. In the Pro Sestio he says 'conservator rei publicae.'

Kaeso . . . Quintius,] The son of L. Quintius Cincinnatus, who was driven away by the popular clamour excited by the tribunes (Livy, iii. c. 11). The story of M. Furius Camillus is in Livy (v. c. 32).

Ahala's name was Caius, and so Baiter writes it. (See In Cat. i. c. 1, and the note.)—"De centuriatis comitiis mox credendum est rhetori.—Consuetudo haec erat, ut, si quis ante comitia centuriata solum vertisset exilii causa, deinde plebs tributis scisceret, id ei justum exilium esset" (Wolf). See Livy, 26. c. 3.

Klotz answers Niebuhr, who charges the Declamator with saying that these three men were condemned to exile by the Comitia Centuriata; and he correctly maintains that this is not said here, but it is said that the men were condemned for something, and avoided the punishment by going into exile, as they could do. Niebuhr also says that 'exilium' was never inflicted as a punishment before the enactment of the Lex Calpurnia de Ambitu; but 'exilium' was no part of the penalty of the Lex Calpurnia. Niebuhr also thinks that the story of Ahala being recalled may be as destitute of foundation as that of Kaeso. To this Klotz replies that it is not said here that they were recalled by the people in the Comitia Centuriata, but "he only states that they were restored to their former dignity by the people, who were afterwards reconciled to them." Let it be so.

populo placato sunt in suam pristinam dignitatem restituti. Quod si his damnatis non modo non imminuit calamitas clarissimi nominis gloriam, sed etiam honestavit—nam etsi optabilius est cursum vitae conficere sine dolore et sine injuria, tamen ad immortalitatem gloriae plus affert desideratum esse a suis civibus quam omnino numquam esse violatum—mihi sine ullo judicio populi profecto cum amplissimis omnium judiciis restitutio maledicti locum aut criminis obtinebit? Fortis et constans in optima ratione civis P. Popillius semper fuit; tamen ejus in omni vita nihil est ad laudem illustrius quam calamitas ipsa. Quis enim jam meminisset eum bene de re publica meritum, nisi et ab improbis expulsus esset et per bonos restitutus? Q. Metelli praeclarum imperium in re militari fuit, egregia censura, omnis vita plena gravitatis; tamen hujus viri laudem ad sempiternam memoriam temporis calamitas propagavit. XXXIII. Quod si et illis, qui expulsi sunt inique, sed tamen legibus, reducti inimicis interfectis rogationibus tribuniciis, non auctoritate senatus, non comitiis centuriatis, non decretis Italiae, non desiderio civitatis, inimicorum injuria probro non fuit; in me, qui profectus sum integer, afui simul cum re publica, redii cum maxima dignitate, te vivo, fratre tuo altero consule reducente, altero praetore petente, tuum scelus meum probrum putas esse oportere? Ac si me populus Romanus incitatus iracundia aut invidia e civitate ejecisset, idemque postea mea in rem publicam beneficia recordatus se collegisset, temeritatem atque injuriam suam restitutione mea reprehendisset, tamen profecto nemo tam esset amens qui mihi tale populi judicium non dignitati potius quam dedecori putaret esse oportere. Nunc vero, quum me in judicium populi nemo omnium vocarit, condemnari non potuerim, qui accusatus non sim, denique ne pulsus quidem ita

P. Popillius . . . Q. Metelli] Here they are again. We had them in c. 31; and we have had them in the Quum Populo, c. 3 and 4; Quum Senatui, c. 15.

33. *afui . . . cum re publica,*] Here we have it again. He has told us often that the Res Publica left Rome when he did. The Senatus and the Populus Romanus stayed behind, as it appears from what follows; but they must have been in an awkward condition without the Res Publica and Cicero. But he has forgotten to tell us here that the Res Publica came back with him, though it did (Quum Senatui, c. 14).

te vivo,] This is the antithesis of 'inimicis interfectis;' as in the Quum Populo, c. 4: 'inimicis interfectis' has its appropriate counterpoise to keep the rhetorical scale in equilibrium. 'Petente' appears to be corrupt: there are the readings 'ducente,' 'dicente,' 'detinente.' Manutius proposes 'patiente,' which is a slight change. Others have been proposed. The 'alter praetor' is Clodius' brother Appius, who made no opposition to Cicero's return (Ad Fam. iii. 10): "Quid erat autem cur ego in te tam implacabilis essem, quum te ex fratre meo ne tunc quidem, quum tibi prope necesse esset eas agere partes, inimicum mihi fuisse cognossem;" and In Pisonem, c. 15. What must we think of the Rhetor, who has just said of this Appius that he was as bad as his brother? (c. 31.) Compare c. 43, and the note on 'fure sublatam.'

sim, ut, si contenderem, superare non possem, contraque a populo Romano semper sim defensus, amplificatus, ornatus, quid est quare quisquam mihi se ipsa populari ratione anteponat? An tu populum Romanum esse illum putas, qui constat ex iis qui mercede conducuntur, qui impelluntur ut vim afferant magistratibus, ut obsideant senatum, optent quotidie caedem, incendia, rapinas? Quem tu tamen populum nisi tabernis clausis frequentare non poteras; cui populo duces Lentidios, Lollios, Plaguleios, Sergios praefeceras. O speciem dignitatemque populi Romani, quam reges, quam nationes exterae, quam gentes ultimae pertimescant, multitudinem hominum ex servis, ex conductis, ex facinorosis, ex egentibus congregatam. Illa fuit pulchritudo populi Romani, illa forma, quam in campo vidisti tum, quum etiam tibi contra senatus totiusque Italiae auctoritatem et studium dicendi potestas fuit. Ille populus est dominus regum, victor atque imperator omnium gentium, quem illo clarissimo die, scelerate, vidisti tum, quum omnes principes civitatis, omnes ordinum atque aetatum omnium suffragium se non de civis, sed de civitatis salute ferre censebant; quum denique homines in campum non tabernis, sed municipiis clausis venerunt. XXXIV. Hoc ego populo, si tum consules aut fuissent in re publica aut omnino non fuissent, nullo labore tuo praecipiti furori atque impio sceleri restitissem. Sed publicam caussam contra vim armatam sine populi praesidio suscipere nolui; non quo mihi P. Scipionis, fortissimi viri, vis intima privati hominis displiceret; sed Scipionis factum statim P. Mucius consul, qui in

contraque a populo] We should say 'but on the contrary.' Cicero uses this form 'contraque' in this way.

impelluntur . . . optent] Perhaps a reader might pass over this, where there is so much more that is absurd. "Satis ridicule. Itaque locum integrum esse negat Garatonius" (Wolf). 'Frequentare' means here to 'collect.' Wolf does not think that the use of this verb in the Orations against Catilina (iv. 7) is like this.

nisi tabernis clausis] Here we have the rhetorician. He shuts up the 'municipia.'

34. *sine populi praesidio*] He hast just said, "With such a people, if there had then been consuls or if there had been none, I could have resisted your violent fury and wicked crime." He adds, "But I did not choose to undertake the cause of the state without the protection of the populus." How is this to be explained? Klotz explains it by making the man say what he does not say. Cicero says, Pro Sestio, c. 19: "scio enim tum non mihi vestrum (populi) studium, sed meum prope vestro defuisse."

vis intima privati] 'Vis * * privati,' Baiter. The reading is uncertain. Manutius proposed 'vis ultima;' and Th. Mommsen proposes 'violentia privati.' P. Scipio is the Pontifex Maximus. He led the rioters who killed Ti. Gracchus. P. Mucius Scaevola was one of the consuls of that year (B.C. 133). 'Gesta' appears to refer to 'in gerenda re publica.' Mucius, who was considered to be rather sluggish about the act, when it was done (gesta), when Ti. Gracchus was killed, not only justified the act, but he did more.—'res pervenisset:' 'res publica pervenisset,' Halm, Baiter, who compares De Domo, c. 42, "in servorum potestatem civitas tota venisset;" which is not like this: and Pro Sestio, c. 21, "nonne ad servos videtis rem publicam venturam fuisse?" as he reads that passage.

gerenda re [publica] putabatur fuisse segnior, gesta multis senatusconsultis non modo defendit, sed etiam ornavit: mihi aut te interfecto cum consulibus, aut te vivo et tecum et cum illis armis decertandum fuit. Erant eo tempore multa etiam alia metuenda. Ad servos, medius fidius, res pervenisset. Tantum homines impios ex vetere illa conjuratione inustum nefariis mentibus bonorum odium retinebat.

Hic tu me etiam gloriari vetas: negas esse ferenda quae soleam de me praedicare, et homo facetus inducis etiam sermonem urbanum ac venustum; me dicere solere esse me Jovem, eundemque dictitare Minervam esse sororem meam. Non tam insolens sum quod Jovem esse me dico, quam ineruditus quod Minervam sororem Jovis esse existimo. Sed tamen ego mihi sororem virginem ascisco; tu sororem tuam virginem esse non sisti. Sed vide ne tu te soleas Jovem dicere, quod tu jure eandem sororem et uxorem appellare possis. XXXV. Et quoniam hoc reprehendis, quod solere me dicas de me ipso gloriosius praedicare, quis umquam audivit, quum ego de me nisi coactus ac necessario dicerem? Nam si, quum mihi furta, largitiones, libidines objiciuntur, ego respondere soleo,

retinebat.] 'Odium tenebat,' Hervagius, and that is what he ought to have said; but it seems that he did not say it. P. has 'odiumne tenebat.' It is supposed that 'retinebat' is sometimes put for 'tenebat.' It may be so; but some of the examples which are cited do not prove it; and the use of the two words is different. Wolf has a remark on the ἀκατάλληλον of the 'structura' of this sentence: 'Sed publicam causam . . . decertandum fuit.' When a man knows all the facts, he sees what is meant. But the sentence is very bad.

esse me Jovem,] This is said in order to introduce the beautiful antithesis of 'mihi sororem virginem,' and 'tuam sororem virginem;' and the smart repartee which follows. And we are to believe that this filthy stuff was spoken before the Pontifices in Clodius' presence, when Cicero was arguing for the area of his house.

He continues in the next chapter in the same strain. "Who ever heard him boast, except when he was compelled?" Who? It is his practice, he says, to speak of his services in saving his country when he is charged with theft and the like; but the only charge brought against him before these very hard times was his cruelty at that time (illius temporis), the time of the conspiracy. It is rather difficult to see what are the very hard times, but we will suppose them to be the times of his exile; for they cannot be the times of his return. The charges of theft and the like, then, were made in and about the very hard times when he was driven into exile; and it was his practice then to speak of his services to the state, which speaking must be considered not so much a boasting of his services as a refusal to admit the charge of theft and so forth. There seems to be a time wanting to which we can refer this practice (soleo) of not pleading to a charge of theft by speaking of something else. It is tedious to talk about such tedious stuff. Any person of common sense will see there is none here. Yet all the critics do not; and from this a conclusion may be made. Cicero had a statue of Minerva in his house, which he took to the Capitol before he left Rome: "He carried to the Capitol the statue of Athene, which for a long time had stood in his house, and to which he paid especial honour, and dedicated it with the inscription, 'To Athene, the guardian of Rome'" (Plutarch, Cicero, c. 31). Cicero mentions this statue in the De Legibus, ii. 17. This may have furnished the Declamator with some of this matter, which he has handled with such ability.—'non confiteri:' 'confiteri,' Baiter. Some MSS. omit 'non.'

meis consiliis, periculis, laboribus patriam esse servatam, non tam sum existimandus de gestis rebus gloriari quam de objectis non confiteri. Sed si mihi ante haec durissima rei publicae tempora nihil umquam aliud objectum est nisi crudelitas ea unius temporis, quum a patria perniciem depuli, quid, me huic maledicto utrum non respondere an demisse respondere decuit? Ego vero etiam rei publicae semper interesse putavi me illius pulcherrimi facti, quod ex auctoritate senatus, consensu bonorum omnium pro salute patriae gessissem, splendorem verbis dignitatemque retinere, praesertim quum mihi uni in hac re publica audiente populo Romano opera mea hanc urbem et hanc rem publicam esse salvam jurato dicere fas fuisset. Exstinctum est jam illud maledictum crudelitatis, quod me, non ut crudelem tyrannum, sed ut mitissimum parentem, omnium civium studiis desideratum, repetitum, arcessitum vident. Aliud exortum est. Objicitur mihi meus ille discessus, cui ego crimini respondere sine mea maxima laude non possum. Quid enim, pontifices, debeo dicere? Peccati me conscientia profugisse? At id quod mihi crimini dabatur non modo peccatum non erat, sed erat res post natos homines pulcherrima. Judicium populi pertimuisse? At nec propositum ullum fuit, et si fuisset, duplicata gloria discessissem. Bonorum mihi praesidium defuisse? falsum est. Me mortem timuisse? turpe est. XXXVI. Dicendum igitur est id quod non dicerem, nisi coactus: nihil enim umquam de me dixi sublatius asciscendae laudis caussa potius quam criminis depellendi: dico igitur, et quam possum maxima voce dico—Quum omnium perditorum et conjuratorum

35. *ea unius*] C.; 'mea unius,' Baiter; 'illius,' Orelli.—'facti, quod . . . gessissem:' Markland attacks the rhetorician's Latin. Gesner admits that 'factum gerere' is not very exact; but he asks if the father of eloquence might not sometimes be a little careless. Further on the writer has 'retinere,' which Wolf says should be 'tueri;' and so it would have been, if Cicero had written this speech.—'jurato dicere,' when he retired from the consulship. See the Introd. to these orations, and Ad Div. v. 2.

turpe est.] But it may be true, though it is 'turpe.' And what has all this to do with his house? We are no nearer to it yet.

36. *sublatius*] Gulielmius suggested 'sufflatius.' Graevius wonders at Gulielmius, who did not remember what Cicero says in the Brutus, c. 55: "duo genera (oratorum bonorum) sunt, unum attenuate presseque, alterum sublate ampleque dicentium." But Gulielmius may have thought that the 'sublatius' of this passage is not the 'sublate' of the Brutus.

maxima voce] The writer has forgotten whom he is addressing. The 'rem publicam esse salvam jurato' is still in his memory; and the passage of Cicero (Ad Fam. v. 2): "magna voce juravi verissimum pulcherrimumque jusjurandum, quod populus item magna voce me vere jurasse juravit." And what does he say after this notice? 'me vidisse . . . futuras.' There would have been no 'reliquiae' at all, if he had been beaten in the struggle. Then we have an antithesis of 'concidere' and 'occidere;' 'concidere,' being, as Wolf says, "cadere cum dolore sic ut excitari et recreari possis; *occidere*, cadere cum exitio, cum interitu." Wolf adds, "in sequentibus nihil tam certum est, quam quod *sensit* homo

incitata vis, duce tribuno plebis, consulibus auctoribus, afflicto senatu, perterritis equitibus Romanis, suspensa ac sollicita tota civitate, non tam in me impetum faceret quam per me in omnes bonos, me vidisse, si vicissem, tenues rei publicae reliquias, si victus essem, nullas futuras. Quod quum judicassem, deflevi conjugis miserae discidium, liberorum carissimorum solitudinem, fratris absentis amantissimi atque optimi casum, subitas fundatissimae familiae ruinas; sed his omnibus rebus vitam anteposui meorum civium, remque publicam concidere unius discessu quam omnium interitu occidere malui. Speravi, id quod accidit, me jacentem posse vivis viris fortibus excitari; si una cum bonis interissem, nullo modo posse recreari. Accepi, pontifices, magnum atque incredibilem dolorem: non nego, neque istam mihi ascisco sapientiam quam nonnulli in me requirebant, qui me animo nimis fracto esse atque afflicto loquebantur. An ego poteram, quum a tot rerum tanta varietate divellerer,—quas idcirco praetereo, quod ne nunc quidem sine fletu commemorare possum—infitiari me esse hominem et communem naturae sensum repudiare? Tum vero neque illud meum factum laudabile nec beneficium ullum a me in rem publicam profectum dicerem, si quidem ea rei publicae caussa reliquissem quibus aequo animo carerem, eamque animi duritiam, sicut corporis, quod quum uritur non sentit, stuporem potius quam virtutem putarem. XXXVII. Suscipere tantos animi dolores, atque ea quae capta urbe accidunt victis, stante urbe unum perpeti, et jam se videre distrahi a complexu suorum, disturbari tecta, diripi fortunas, patriae denique caussa patriam ipsam amittere, spoliari populi Romani beneficiis amplissimis, praecipitari ex

(*speravit*), *si interiisset, nullo se modo recreari posse.*" He say this in the Pro Sestio, c. 22, in a different style: "Quis enim umquam me a senatu populoque Romano tanto omnium bonorum studio non restituto, quod certe, si essem interfectus, accidere non potuisset, ullam rei publicae partem cum sua minima invidia auderet attingere?" "Wolf's sneer loses all its meaning, when we properly look at the words *cum bonis*, as in justice and equity we should do, which words Wolf purposely omitted in his sneer." Whether he perished 'cum bonis' or without them, the result was the same. Baiter, following Nägelsbach, writes 'posse rem publicam recreari.'

me . . . esse . . . loquebantur.] For 'me . . . esse . . . dicebant.'—'sine fletu:' there is a better reason than this for passing over them. They were beside the purpose.

stuporem potius] Wolf refers to Crantor's opinion, Tuscul. Disp. iii. 6: "Minime assentior iis, qui istam nescio quam indolentiam magnopere laudant, quae nec potest ulla esse nec debet.—Nam istud nihil dolere non sine magna mercede contingit immanitatis in animo, stuporis in corpore."

He says something in the Pro Sestio, c. 22, in a few words much better. The Declamator has turned it into burlesque: "Neque enim in hoc me hominem esse infitiabor umquam, ut me optimo fratre, carissimis liberis, fidissima conjuge, vestro conspectu, patria, hoc honoris gradu sine dolore caruisse glorier. Quod si fecissem, quod a me beneficium haberetis, quum pro vobis ea quae mihi essent vilia reliquissem?"

altissimo dignitatis gradu, videre praetextatos inimicos nondum morte complorata arbitria petentes funeris; haec omnia subire conservandorum civium caussa, atque ita, quum dolenter absis, non tam sapiens quam ii qui nihil curant, sed tam amans tuorum ac tui quam communis humanitas postulat, ea laus praeclara atque divina est. Nam qui ea, quae numquam cara ac jucunda duxit, animo aequo rei publicae caussa deserit, nullam benevolentiam insignem in rem publicam declarat; qui autem ea relinquit, rei publicae caussa, a quibus cum summo dolore divellitur, ei cara patria est, cujus salutem caritati anteponit suorum. Quare disrumpatur licet ista furia atque audiat haec ex me, quoniam lacessivit,—bis servavi, ut consul togatus armatos vicerim, privatus consulibus armatis cesserim. Utriusque temporis fructum tuli maximum; superioris, quod ex senatus auctoritate et senatum et omnes bonos meae salutis caussa mutata veste vidi; posterioris, quod et senatus et populus Romanus et omnes mortales et privatim et publice judicarunt sine meo reditu rem publicam salvam esse non posse.

Sed hic meus reditus, pontifices, vestro judicio continetur. Nam si vos me in meis aedibus collocatis, id quod in omni mea caussa semper studiis, consiliis, auctoritatibus sententiisque fecistis, video me plane ac sentio restitutum: sin mea domus non modo mihi non redditur, sed etiam monumentum praebet inimico doloris mei, sceleris sui, publicae calamitatis, quis erit qui hunc reditum potius quam poenam sempiternam putet? In conspectu prope totius urbis domus est mea, pontifices, in qua si manet illud non monumentum urbis, sed sepulcrum inimico nomine inscriptum, demigrandum potius aliquo est quam habitandum in ea urbe, in qua tropaea et de me et de re publica videam constituta.

XXXVIII. An ego tantam aut animi duritiem habere aut

37. *arbitria . . . funeris;*] Quum Senatui, c. 7.—'quum dolenter absis:' 'quum dolenter feras et sis,' Baiter. 'Feras' seems to be his own. There is probably some corruption here. The common texts have 'ita ut dolenter absis.'

Quare disrumpatur] 'Quare—dirumpatur . . . lacessivit—bis rem publicam servavi, qui," Baiter. 'Rem publicam' is an addition, and 'qui' a correction of Garatoni. Lambinus placed 'rem publicam' after 'Quare,' and that is the right place for it. He observes that 'rem publicam' is often written *r. p.*, and that these letters might easily be omitted by a copyist, owing to the similarity of the preceding word. Halm proposes 'simul atque' for 'atque.' The Latin is bad, but the sense is worse. In the Pro Sestio, c. 22, Cicero says: "Servavi igitur rem publicam discessu meo . . . et unus bis rem publicam servavi, semel gloria, iterum aerumna mea."

"Quanto rectius hic, qui nil molitur inepte."

me in meis aedibus collocatis,] See c. 58, note.

monumentum urbis,] Baiter says: "*urbis* vel cum Ernestio delendum est vel cum Naegelsbachio scribendum *libertatis.*" But why? In order that it may be better? That is no reason for mending it.

oculorum impudentiam possim, ut, cujus urbis servatorem me esse senatus omnium assensu toties judicarit, in ea possim intueri domum meam eversam, non ab inimico meo, sed ab hoste communi, et ab eodem exstructam et positam in oculis civitatis, ne umquam conquiescere possit fletus bonorum? Sp. Maelii regnum appetentis domus est complanata. Ecquid aliud? aequum accidisse populus Romanus Maelio judicavit; nomine ipso Aequimaelii stultitia poena comprobata est. Sp. Cassii domus ob eandem caussam eversa, atque in eodem loco aedes posita Telluris. In Vacci pratis domus fuit M. Vacci, quae publicata est et eversa, ut illius facinus memoria et nomine loci notaretur. M. Manlius, quum ab ascensu Capitolii Gallorum impetum reppulisset, non fuit contentus beneficii sui gloria: regnum appetisse est judicatus; ergo ejus domum eversam duobus lucis convestitam videtis. Quam igitur majores nostri sceleratis ac nefariis civibus maximam poenam constitui posse arbitrati sunt, eandem ego subibo ac sustinebo, ut apud posteros nostros non exstinctor conjurationis et sceleris, sed auctor et dux fuisse videar? Hanc vero, pontifices, labem turpitudinis et inconstantiae poterit populi Romani dignitas sustinere vivo senatu, vobis principibus publici consilii, ut domus M. Tullii Ciceronis cum

38. *urbis servatorem*] See c. 32, note on 'Gratias agendas.'—'aedem exstructam,' Lambinus, Baiter. 'Aedem' is an addition without any authority. But the genuine text omits it. Compare c. 58: "domo per scelus erepta," &c.; and c. 40: "quum suis dicat . . . manibus consecrasse."

stultitia] Halm proposes and Baiter accepts 'justitia poenae' in place of 'stultitia poenae.' But 'justitia poenae' is not Latin, I believe. Halm refers to Valerius Maximus (vi. 3. 1): "Eadem ausum Sp. Maelium consimili exitu patria multavit. Area vero domus ejus, quo justitia supplicii notior ad posteros perveniret Aequimeli appellationem traxit" (Ed. Torrentius). But the reading of four MSS. is 'quo justi supplicii notitia ad posteros perveniret.' Markland suggests that the Declamator was acquainted with Valerius Maximus. It may be that Maximus copied the Declamator. He has in the same paragraph the story of Maelius, Sp. Cassius, and Manlius, all of which are commonplaces with Cicero (Pro Sulla, c. 9; Livy, ii. c. 41). If this oration is the original of Maximus, the Declamator must bear the blame of supposing or saying that the area of Maelius' house was called Aequimelium because of the 'aequitas' of his punishment. It was so called because his house was levelled to the ground, as Aurelius Victor, c. 17, says: "Sp. Maelium, regnum affectantem a Servilio Ahala magistro equitum occidi jussit Quintius Cincinnatus: domum ejus solo aequavit, unde locus ille Aequimelium dictus;" and Varro. But though the etymology is false, Cicero might have said it.

Vacci pratis] Vitruvius Vaccus was of Fundi, but he had a house at Rome. He stirred up the Privernates and Fundani to a war against the Romans, in which he was made prisoner and then put to death: "Aedes fuere in Palatio ejus, quae Vacciprata diruto aedificio publicatoque solo appellata" (Livy, viii. 19).—'ut illius facinoris memoria nomine,' Baiter's correction.

vobis principibus] How are the Pontifices, the 'principes publici consilii,' which is the Senate? See Pro Sestio, c. 19: "consules qui duces publici consilii esse deberent:" where the consuls are the leaders of the 'publicum consilium.' Fulvius Flaccus and the Gracchi (In Cat. iv. 6).—'et senatus:' 'ex senatus,' Garatoni, Baiter.—'porticum:' Catulus, the colleague of C. Marius, built a 'porticus' out of the spoils of the Cimbri, whom he and Marius defeated in North Italy. Valerius Maximus (vi. 3. 1): "Ceterum Flacciana area, quum

domo Fulvii Flacci ad memoriam poenae publice constitutae conjuncta esse videatur? M. Flaccus, quia cum C. Graccho contra salutem rei publicae fecerat, et senatus sententia est interfectus, et ejus domus eversa et publicata est: in qua porticum post aliquanto Q. Catulus de manubiis Cimbricis fecit. Ista autem fax ac furia patriae, quum urbem Pisone et Gabinio ducibus cepisset, occupasset, teneret, uno eodemque tempore et clarissimi viri mortui monumenta delebat, et meam domum cum Flacci domo conjungebat; ut qua poena senatus affecerat eversorem civitatis, eadem iste oppresso senatu afficeret eum quem patres conscripti custodem patriae judicassent. XXXIX. Hanc vero in Palatio atque in pulcherrimo urbis loco porticum esse patiemini, furoris tribunicii, sceleris consularis, crudelitatis conjuratorum, calamitatis rei publicae, doloris mei defixum indicium ad memoriam omnium gentium sempiternam? quam porticum pro amore, quem habetis in rem publicam et semper habuistis, non modo sententiis, sed si opus esset manibus vestris disturbare cuperetis; nisi quem forte illius castissimi sacerdotis superstitiosa dedicatio deterret.

O rem quam homines soluti ridere non desinant, tristiores autem sine maximo dolore audire non possint. Publiusne Clodius, qui ex pontificis maximi domo religionem eripuit, is [in] meam intulit? huncine vos, qui estis antistites caerimoniarum et sacrorum, auctorem habetis et magistrum publicae religionis? O dii immortales! vos enim haec audire cupio, P. Clodius vestra sacra curat; vestrum numen horret; res omnes humanas religione vestra contineri putat? Hic non illudit auctoritati horum omnium qui adsunt, summorum virorum; non vestra, pontifices, gravitate

diu penatibus vacua mansisset a Q. Catulo Cimbricis spoliis adornata est." The 'manubiae' are 'spolia' (Vol. I. Verr. ii. 1. c. 59). Markland observes that the writer says 'domus eversa . . . in qua porticum,' when he ought to have said 'in cujus area.' But it is his fashion to write so. See c. 38, note on 'aedem exstructam.' And in this chapter he says "et meam domum cum Flacci domo conjungebat," though both houses were destroyed. Catulus and his 'porticus' appear again (c. 43). He does not let us off with once. There is more about the 'Catuli porticus' in c. 44.

39. *Hanc . . . porticum*] The reader may have some difficulty with this. He says (c. 38), Clodius "viri mortui monumenta delebat," which means, I suppose, that he began at least to destroy it (c. 43); at least he did as much towards destroying it, as he did towards 'joining Cicero's house to Flaccus'' (conjungebat). He then asks the Pontifices if they will allow *this* 'porticus' to remain a memorial 'furoris tribunicii,' and so on; which ought to mean the 'porticus' which Catulus built as a "monumentum suarum manubiarum" (c. 43); and the Pontifices are told that they should pull it down, unless they should be deterred by the 'dedicatio.' We now get a hint of what the man is talking about. This 'porticus' is Clodius' new 'porticus.'—'sententiis . . . manibus:' see c. 58, and the note.

religionem eripuit,] When he got into Caesar's house in disguise during the celebration of the mysteries of the Bona Dea.

meam intulit?] C., Baiter: 'in meam,' in the editions generally.

abutitur? Ex isto ore religionis verbum excidere aut elabi potest? quam tu eodem ore, accusando senatum quod severe de religione decerneret, impurissime taeterrimeque violasti. XL. Aspicite, aspicite, pontifices, hominem religiosum, et, si vobis videtur, quod est bonorum pontificum, monete eum modum quendam esse religionis; nimium esse superstitiosum non oportere. Quid tibi necesse fuit anili superstitione, homo fanatice, sacrificium quod alienae domi fieret invisere? quae autem te tanta mentis imbecillitas tenuit, ut non putares deos satis posse placari, nisi etiam muliebribus religionibus te implicuisses? quem umquam audisti majorum tuorum, qui et sacra privata coluerunt et publicis sacerdotiis praefuerunt, quum sacrificium Bonae deae fieret, interfuisse? Neminem, ne illum quidem, qui caecus est factus. Ex quo intelligitur multa in vita falso homines opinari; quum ille, qui nihil viderat sciens quod nefas esset, lumina amisit; istius, qui non solum aspectu, sed etiam incesto flagitio et stupro caerimonias polluit, poena omnis oculorum ad caecitatem mentis est conversa. Hoc auctore tam casto, tam religioso, tam sancto, tam pio, potestis, pontifices, non commoveri, quum suis dicat se manibus domum civis optimi evertisse et eam iisdem manibus consecrasse?

Quae tua fuit consecratio? Tuleram, inquit, ut mihi liceret. Quid, non exceperas, ut, si quid jus non esset rogari, ne esset rogatum? Jus igitur statuetis esse unius cujusque vestrum sedes, aras, focos, deos penates subjectos esse libidini tribuniciae; in quem quisque per homines concitatos irruerit, quem impetu perculerit, hujus domum non solum affligere, quod est praesentis

40. *nimium . . . superstitiosum*] "Teach him that he ought not to be too superstitious." If he had said 'nimium . . . religiosum,' he would have said correctly and saved the critics trouble; for it is clearly implied that a man should be 'superstitious.' But the Declamator is dealing in a fine irony. That is the true solution of the difficulty. Such irony, however, and such sarcasm one would pray to be spared.

quum ille, . . . amisit;] "*Quum* h. l. poscebat conjunctivum *amiserit*" (Markland). "Hic se nimis Grammaticum, aut parum potius, prodit vir doctus" (Gesner). But it ought to be the subjunctive. Nägelsbach changes 'quum' into 'quoniam,' and Baiter follows him.

The blind man is Appius Claudius Caecus, who grew blind in his old age. The absurdity of the passage led Graevius to maintain that the allusion is to Caecilius Metellus, who snatched the Palladium from the flames in the temple of Vesta and was struck blind, B.C. 241 (Ovid, Fast. vi. 436; Livy, Epit. 19). Clodius on his mother's side came from the family of the Metelli.

Ex quo intelligitur] The false opinion is that the gods punished the profane, or that they would strike a man blind who polluted the mysteries of the Bona Dea. It is easy to see how this writer is led to these choice morsels. It is all arranged to introduce the 'caecitas mentis,' and to present an antithesis of 'oculorum caecitas' and 'mentis caecitas.' The propriety of the thing does not concern this writer.

Quid, non exceperas,] Pro Caecina, c. 33, Vol. II., note on 'Si quid jus.'

insaniae quasi tempestatis repentinae, sed etiam in posterum tempus sempiterna religione obligare? XLI. Equidem sic accepi, pontifices, in religionibus suscipiendis caput esse interpretari, quae voluntas deorum immortalium esse videatur; nec est ulla erga deos pietas, si honesta deest de numine eorum ac mente opinio, quum expeti nihil ab iis quod sit injustum atque inhonestum arbitrare. Hominem invenire ista labes tum quum omnia tenebat neminem potuit, cui meas aedes addiceret, cui traderet, cui donaret. Ipse quum loci illius, quum aedium cupiditate flagraret, ob eamque caussam unam una justa illa rogatione sua vir bonus dominum se in meis bonis esse voluisset, tamen illo ipso in furore suo non est ausus meam domum cujus cupiditate inflammatus erat possidere: deos immortales existimatis, cujus labore et consilio sua ipsi templa tenuerunt, in ejus domum afflictam et eversam per [vim] hominis sceleratissimi nefarium latrocinium immigrare voluisse? Civis est nemo tanto in populo extra contaminatam illam et cruentam P. Clodii manum, qui rem ullam de meis bonis attigerit, qui non pro suis opibus in illa tempestate defenderit. At qui aliqua se contagione praedae, societatis, emptionis contaminaverunt, nullius neque privati neque publici judicii poenam effugere potuerunt. Ex his igitur bonis, [ex] quibus nemo rem ullam attigit qui non omnium judicio sceleratissimus haberetur, dii immortales domum meam concupiverunt? Ista tua pulchra Libertas deos penates et familiares meos lares expulit, ut te ipsa tamquam in captivis sedibus collocaret? Quid est sanctius, quid omni religione munitius quam domus unius cujusque civium? Hic arae sunt, hic foci, hic dii

41. *si honesta deest de*] Baiter. The common reading in the editions is 'nisi honesta de.'—'arbitrare' seems to be corrupt.

ista labes tum . . . Ipse] Here he speaks of Clodius as if he were not present. —'una justa illa:' 'una' is omitted by G. V. Halm proposes to write 'inusta' for 'una justa,' comparing In Pison. c. 13: "Quae lex . . . inusta per servos;" and Pro Milone, c. 12: "quas ille leges . . . inusturas." I think this passage is the genuine hand of the Declamator, 'caussam unam una justa;' antithesis and irony.

per [*vim*] *hominis*] C. Baiter has put 'vim' in [ ] on the advice of Mommsen. The usual reading in the editions is 'per unius hominis;' for which I suppose there is some MSS. authority.

in illa tempestate] '*in illa tempestate* me, nos,' that is, Baiter. But perhaps the true reading is 'qui non pro suis opibus illam tempestatem defenderit.'—'privati neque publici judicii poenam:' he says they have not been able to escape the penalty either of a public or a private trial. I cannot explain this. I take it to be said 'oratorie,' for we have no evidence of any 'privata' or 'publica judicia' which affected those who polluted themselves by the contact of booty, partnership, and so forth. What he says of the 'dii immortales' is ridiculous.

te . . . collocaret?] C., 'se . . . collocaret,' Garatoni, Baiter. But 'te . . . collocaret' is right. Graevius could not understand how Libertas could place Clodius in these 'sedes.' He did not understand his author. The old reading is 'a te ipsa . . . collocaretur,' which is still greater nonsense. Graevius says it is the writing of the old codices and editions. As to the codices, he says not which.

penates; hic sacra, religiones, caerimoniae continentur; hoc perfugium est ita sanctum omnibus ut inde abripi neminem fas sit. XLII. Quo magis est istius furor ab auribus vestris repellendus, qui, quae majores nostri religionibus tuta nobis et sancta esse voluerunt, ea iste non solum contra religionem labefactavit, sed etiam ipsius religionis nomine evertit.

At quae dea est? Bonam esse oportet, quoniam quidem est abs te dedicata. Libertas, inquit, est. Eam tu igitur domi meae collocasti quam ex urbe tota sustulisti? Tu, quum collegas tuos summa potestate praeditos negares liberos esse; quum in templum Castoris aditus esset apertus nemini; quum hunc clarissimum virum, summo genere natum, summis populi beneficiis usum, pontificem et consularem, et singulari bonitate et modestia praeditum, quem satis mirari quibus oculis aspicere audeas non queo, audiente populo Romano a pedisequis conculcari juberes; quum indemnatum exturbares, privilegiis tyrannicis irrogatis; quum principem orbis terrae virum inclusum domi contineres; quum forum armatis catervis perditorum hominum possideres; Libertatis simulacrum in ea domo collocabas, quae domus erat ipsa indicio crudelissimi tui dominatus et miserrimae populi Romani servitutis? Eumne potissimum Libertas domo sua debuit pellere, qui nisi fuisset, in servorum potestatem civitas tota venisset? XLIII. At unde est ista inventa Libertas? quaesivi enim diligenter. Tanagraea quaedam

42. *Bonam*] An allusion again to the Bona Dea and the scandalous affair of Clodius, "which allusion contains nothing cold or trifling, but a bitter irony" (Klotz); such as our Declamator is very expert in. —'negares:' 'vetares,' Halm, and Baiter adopts the alteration.—'hunc clarissimum:' we do not know who this illustrious man was, this Pontifex; nor whether the 'pedisequi' trampled on him, as they were told to do. Clodius is now supposed to be present, or we should have lost the 'quibus oculis aspicere audeas.'

quum indemnatum] 'quum me indemnatum,' Halm, Baiter. Markland says that Cicero never uses 'exturbare' with an ablative, unless it can be supplied from another member of the sentence. He refers to Pro Quintio, c. 15. 31; Pro Sulla, c. 25; Pro Sestio, c. 30; Ad Att. viii. 16; and add Pro Cluentio, c. 5.

The 'principem orbis terrae' is Pompeius. Cicero generally says 'orbis terrarum;' but 'principem orbis terrarum,' with the omission of 'virum,' would be better still; but not for that reason to be preferred here. Here the 'princeps orbis terrae' is again shut up in his house, where he generally is in these speeches (Quum Senatui, c. 2).—'possideres' seemed to Graevius to be contrary to Roman usage in this passage, and he proposed 'obsideres,' which Baiter has printed. But the Declamator might consider it a proper word here, though the true expression would be 'obsideres' or 'teneres.' Pro Sestio, c. 15: "armati homines forum . . . tenebant."

43. *Tanagraea . . . meretrix*] An invention of the good man, I believe. He might have found a hint in Cicero (Verr. ii. 4. c. 2, Vol. I.). The 'homo nobilis' is Appius Clodius, Publius' brother. Wolf observes that the writer seems not to have quite made up his mind, whether he should represent Appius still as an enemy to Cicero or as reconciled to him. See c. 33, and the note on 'te vivo.'

It was a Roman fashion to collect statues and other things to adorn the public places when the aediles made their great entertainments for the people (Livy, ix. 40; Verr. ii. 1. c. 19, Vol. I.).

meretrix fuisse dicitur. Ejus non longe a Tanagris simulacrum e marmore in sepulcro positum fuit. Hoc quidam homo nobilis, non alienus ab hoc religioso Libertatis sacerdote, ad ornatum aedilitatis suae deportavit; etenim cogitarat omnes superiores muneris splendore superare. Itaque omnia signa, tabulas, ornamentorum quod superfuit in fanis et communibus locis tota Graecia atque insulis omnibus, honoris populi Romani caussa, sane frugaliter domum suam deportavit. Is posteaquam intellexit posse se interversa aedilitate a L. Pisone consule praetorem renuntiari, si modo eadem prima littera competitorem habuisset aliquem, aedilitatem duobus in locis, partim in arca, partim in hortis suis, collocavit: signum de busto meretricis ablatum isti dedit, quod esset signum magis istorum quam publicae libertatis. Hanc deam quisquam violare audeat, imaginem meretricis, ornamentum sepulcri, a fure sublatam, a sacrilego collocatam? haec me domo mea pellet? haec ultrix

interversa aedilitate] We can guess what is meant, but the exact meaning of 'interversa' in this passage is doubtful. In Cicero (Phil. ii. c. 32) it means 'to intercept and misappropriate;' and also in another place (Vol. I. Verr. ii. 4. c. 30): "qui si intellexerint, interverso hoc regali dono, graviter vos tulisse, grata fore vobis populoque Romano sua studia ac dona arbitrabuntur;" and the two passages from the Digest cited there. Appius saw that if he gave up the chance of the aedileship, he might get himself returned as praetor, 'si modo . . . aliquem:' 'if he had only some competitor with the same first letter to his name.' Ferratius thinks that this is to be explained by supposing that it refers to the abbreviations of the names of the candidates on the voting tablets, and their being fraudulently misread. But this is only a guess.

in arca,] Baiter has 'in area,' and he mentions no readings. 'Arca' and 'area' are easily confounded. I cannot conjecture what sense Baiter gives to 'area.' Appius gave up the aedileship and saved the cost: he put the money in his chest, and the statues in his gardens, except the woman's statue.

magis istorum] Markland says that the man ought to have written 'istorum licentiae,' as he opposes 'libertas' and 'licentia' in c. 51, where he thinks that 'licentiae' should perhaps be 'licentiae tuae,' the 'tuae' having been swallowed up by the end of the 'licentiae.' Markland shows that Licentia and Libertas are often contrasted: Livy, iii. 37; Cicero, De Legg. ii. 17.

a fure sublatam,] Appius Claudius a thief, one of the praetors of the year (B.C. 57), who had not opposed Cicero's return, with whom Cicero was afterwards on terms of intimacy and pretended friendship. Markland cannot believe it possible that Cicero would have said this; nor is it possible if he had now been fully reconciled to Appius, but that reconciliation was later than B.C. 57 (Ad Div. i. 9). Gesner defends the 'thief' well, by showing that it was Cicero's fashion to abuse people in this way and afterwards to be friendly with them. He refers to what Cicero says in Toga Candida against C. Antonius, who was afterwards his colleague in the consulship. But that is not much of an argument. Cicero could not prevent Antonius being his colleague, and he kept a sharp eye on him. Cicero's behaviour to Vatinius is more to the purpose. He branded the man in the extant oration (In Vatinium), and he afterwards defended him (Ad Fam. i. 9), and corresponded with him (Ad Fam. v. 9, &c.). Wolf says, "Nunc statuat quisque pro suo de tota re judicio: per nos licebit." See what he says, c. 33 and the note. The Declamator could have no hesitation about calling Ap. Clodius a thief. It was a small matter this of thieving: he had been charged with thieving himself (c. 34).

ultrix] Ernesti altered this to 'victrix,' and Baiter shows his want of judgment by putting it into his text. "Quasi *ultura* civitatem afflictam a Cicerone, *vindictam expetitura* tyrannicae injuriae ab eo suis civibus illatae. Quippe huc refer consilium Clodii in statua Libertatis constituenda: quale consilium et Graeci sequuti

afflictae civitatis rei publicae spoliis ornabitur? haec erit in eo monumento, quod positum est ut esset indicium oppressi senatus ad memoriam sempiternam turpitudinis? O Q. Catule—patremne appellem an filium? recentior enim memoria filii est et cum meis rebus gestis conjunctior—tantumne te fefellit, quum mihi summa et quotidie majora praemia in re publica fore putabas? Negabas fas esse duo consules esse in hac civitate inimicos rei publicae. Sunt inventi qui senatum tribuno furenti constrictum traderent, qui pro me patres conscriptos deprecari et populo supplices esse edictis atque imperio vetarent, quibus inspectantibus domus mea disturbaretur, diriperetur, qui denique ambustas fortunarum mearum reliquias suas domos comportari juberent. Venio nunc ad patrem. Tu, Q. Catule, M. Fulvii domum, quum is fratris tui socer fuisset, monumentum tuarum manubiarum esse voluisti, ut ejus, qui perniciosa rei publicae consilia cepisset, omnis memoria funditus ex oculis hominum ac mentibus tolleretur. Hoc si quis tibi aedificanti illam porticum diceret, fore tempus, quum is tribunus plebis, qui auctoritatem senatus, judicium bonorum omnium neglexisset, tuum monumentum consulibus non modo inspectantibus verum adjuvantibus disturbaret, everteret, idque cum ejus civis, qui rem publicam ex senatus auctoritate consul defendisset, domo conjungeret, nonne responderes id nisi eversa civitate accidere non posse?

XLIV. At videte hominis intolerabilem audaciam cum projecta quadam et effrenata cupiditate. Monumentum iste umquam aut religionem ullam excogitavit? Habitare laxe et magnifice voluit, duasque et magnas et nobiles domos conjungere. Eodem puncto temporis, quo meus discessus isti caussam caedis eripuit, a Q. Seio contendit ut sibi domum venderet: quum ille id negaret, primo se luminibus ejus esse obstructurum minabatur. Affirmabat Postumus se vivo illam domum istius numquam futuram. Acutus adoles-

sunt in variis templis Jovis Eleutherii ponendis" (Wolf).

duo consules] See Quum Senatui, c. 4, and the note.—'Venio nunc ad patrem:' does any body believe that Cicero wrote this? All this is miserable stuff about the Catuli, and we have had it before.

tuum monumentum . . . disturbaret, everteret,] The building of Clodius, which he urges the Pontifices to pull down (c. 39).

44. *excogitavit?*] Markland says that it should be 'cogitavit,' for 'cogitare' is 'to think about,' and 'excogitare' means 'to devise.' Cicero (Ad Fam. v. 20) says: "Quum rem a me non insipienter excogitatam, ne cogitatam quidem putes." See also Ad Att. ix. 6; Philipp. v. 5 and 6; Tuscul. Disp. i. 25. Lambinus changed 'excogitavit' to 'cogitavit,' but 'sine librorum auctoritate.'

luminibus . . . obstructurum] See the note on 'obstruere,' Vol. I. Verr. ii. 4. c. 36.

Postumus] The cognomen, we must assume, of Q. Seius.

cens ex ipsius sermone intellexit quid fieri oporteret; hominem veneno apertissime sustulit; emit domum licitatoribus defatigatis prope dimidio carius quam aestimabat. Quorsum igitur haec oratio pertinet? Domus illa mea prope tota vacua est: vix pars aedium mearum decima ad Catuli porticum accessit. Caussa fuit ambula-

licitatoribus] Pantagathus: the MSS. readings are 'litigatoribus,' 'ligatoribus,' and 'litigationibus.'—'aestimabatur,' Garatoni, Baiter: "*aestimabat* cum signo interpunctionis compendio syllabae *ur* simillimo, P.; *aestimabat* G. M. V." (Baiter.)

prope vacua . . . decima] Becker (Handbuch, &c. vol. i. p. 423): "After M. Fulvius Flaccus had perished with C. Gracchus, his house on the Palatine was pulled down, and his kinsman Q. Lutatius Catulus at a later time, after his victory over the Cimbri, built on the site the Porticus Catuli. Close to it stood the house of Cicero, which had been built by M. Livius Drusus, and afterwards belonged to a Crassus, but it certainly was not the house which L. Crassus the orator had once possessed, whose extravagant splendour, as it then was judged to be, was made a cause of reproach against him. When Cicero was banished, Clodius set fire to this house and added a part of it to the Porticus Catuli; but by much the largest part, though he dedicated it to Libertas, he joined to the house which he bought there at the same time." Becker refers to Plutarch, Cicero, c. 33; Dion Cassius, 38. c. 17; Appian, B. C. ii. 15; Cicero, In Pison. 11 with the note of Asconius, and generally to this speech De Domo, and particularly to this chapter (44). He adds: "Clodius erased the name of Catulus and dedicated the Porticus under his own name" (De Domo, c. 53; De Harusp. c. 27). Here the Declamator says: "that house of mine is almost entirely vacant," meaning by the house the area of the house; and "scarcely a tenth part of my house (he means the area) has been added to the Porticus Catuli." It was 'vacua religione' (De Harusp. c. 6). "The reason (of this) was the 'ambulatio' and 'monumentum' and that Libertas of Tanagra, when 'libertas' was crushed." The 'ambulatio' was a place to walk about in (Pro Sulla, c. 21). Manutius says: "the 'ambulatio' made by Claudius was the reason why scarcely a tenth part of my house was added to the Porticus." He took the greater part of the area for his own use.

He explains the facts thus: "Clodius had destroyed the Porticus of Catulus and had built there another Porticus (clarissimi viri mortui monumenta delebat, c. 38)." Then he adds, "Hanc vero in Palatio atque in pulcherrimo urbis loco porticum esse patiemini?" (c. 39.) Accordingly he calls the Porticus Catuli, not that which then was, but that which had been, on the site of which and of a part of Cicero's house Clodius had built a Porticus of three hundred feet.

Markland quotes a long note of Ferratius on this passage. Ferratius says: "The house of Q. Seius was next to the house of Clodius, for otherwise Clodius could not have stopped his windows (lumina) by building. Behind the house of Seius was the Porticus Catuli, and Cicero's house joined the same Porticus on the other side. Accordingly Clodius pulled down the 'monumentum' of Catulus and also a part of Cicero's house, and having plenty of room he built a new Porticus, and dedicated it to Libertas." This makes it plain how Clodius united 'duas et magnas et nobiles domos,' the house of Seius and the house of Tullius. Ferratius then explains 'prope tota vacua:' "the area of Cicero's house was not dedicated, for 'vix pars aedium mearum decima ad Catuli porticum accessit.' This was the only part which was dedicated, and it was about this part only that the Pontifices had to give judgment; for the rest of the house (the area), which Clodius had bought in another man's name and had assigned part of it to the Clodia gens, was not dedicated and would be restored as a matter of course. Accordingly Cicero proceeds to say 'Causa fuit ambulatio,' &c. Clodius had no thought of a dedication to the purposes of religion: he wished to occupy my house, and to join it to the house of Seius; yet he added a part to the Porticus Catuli for two reasons, that my house appearing to be consecrated to Libertas might not be restored to me by the Senate, and that he might have a larger Porticus to walk about in. Accordingly the Pontifices are said to have given judgment about Cicero's house in these terms (Ad Att. iv. 2): 'Videri posse sine religione [eam] (Orelli) partem areae mihi restitui.' Why not the whole area? Because only a tenth part of the house had been dedicated and almost the whole house was 'a religione

tio et monumentum et ista Tanagraea oppressa libertate Libertas. In Palatio pulcherrimo prospectu porticum cum conclavibus pavimentatam trecentum pedum concupierat, amplissimum peristylum; cetera ejusmodi facile ut omnium domos et laxitate et dignitate superaret. Et homo religiosus, quum aedes meas idem emeret et venderet, tamen illis tantis tenebris non est ausus suum nomen emptioni illi ascribere. Posuit Scatonem illum, hominem sua virtute egentem, ut is, qui in Marsis ubi natus est, tectum cui imbris vitandi caussa succederet nullum haberet, aedes in Palatio nobilissimas emisse se diceret. Inferiorem aedium partem assignavit non suae genti Fonteiae, sed Clodiae, quam reliquit; quem in numerum ex multis Clodiis nemo nomen dedit, nisi aut egestate aut scelere perditus. Hanc vos, pontifices, tam variam, tam novam in omni genere voluntatem, impudentiam, audaciam, cupiditatem comprobabitis?

XLV. Pontifex, inquit, adfuit. Non te pudet, quum apud pontifices res agatur, pontificem dicere, non collegium pontificum adfuisse, praesertim quum tribunus plebis vel denuntiare potueris vel etiam cogere? Esto: collegium non adhibuisti. Quid, de collegio quis

jam vacua.' For why should they give judgment about that part which was not in dispute, which had been restored by the Senate?"

It is difficult to understand how Clodius could destroy the Porticus of Catulus; but it seems that he did, or perhaps he altered it; certainly added to it. The passages about the restoration of this Porticus are in the letters to Atticus (iv. 2, 3). Cicero says in the second of these letters: "Armatis hominibus ante diem tertium Non. Novembr. expulsi sunt fabri de area nostra, disturbata porticus Catuli, quae ex senatusconsulto consulum locatione reficiebatur, et ad tectum paene pervenerat."

Scatonem] He borrowed the name, as Markland supposes, from the Philipp. xii. 11. The expression 'hominem sua virtute egentem' is irony. He was poor through his vices.—'cui:' L. Uster., 'qui,' Cod.

quem in numerum] "Puta, in numerum eorum quibus partem aedium Clodius assignaverat. Quod quid sit aut qualis assignatio, parum explicat homo balbutiens. Rem ad testamentum referri volebat Hotomanus" (Wolf). This is one of the most absurd passages in the speech; and it appears to be all founded on an antithesis. He will oppose the Fonteia, the adopted gens of Clodius, to the Clodia gens. What would these miserable wretches (egestate aut scelere perditus) get by an 'assignatio' on the Palatine, where the wealthy lived? The writer uses the same expression which is used in the case of a colony, and which he has properly used in c. 30.—'nomen dedit:' so in Livy i. 11: "plures inventi qui propter ubertatem terrae in Crastuminum nomina darent;" and iii. 1: "jussi nomina dare qui agrum accipere vellent."

45. *vel etiam cogere?*] This passage makes a reader pause. Markland doubts if a tr. pl. could compel a pontifex to do what is said here. Dionysius (Antiq. Rom. ii. 73) says that the Pontifices were not responsible in any trial or liable to any penalty (multa); in the exercise of their religious functions of course, he means. Gesner answers that nobody at Rome was ἀνυπεύθυνος, which is true, but nothing to the purpose. The Pontifex Maximus could fine priests (Livy, 37. c. 51; 40. c. 42; Cicero, Philipp. xi 8), but the priests could appeal to the Populus against the fine. Again, the Pontifices appealed to the Populus and unsuccessfully when the Quaestor claimed 'tributum' (taxes) from them (Livy, 33. c. 42). These instances are cited by Gesner to show the authority of the Tribunes; but they do not prove in the least the assertion in the text. Nor do the instances cited of a tribune threatening to imprison a censor (Livy, 9. c. 34), nor his imprisoning a consul.

tandem adfuit? Posuerat enim auctoritatem in uno quae est in his omnibus; sed tamen auget et aetas et honos dignitatem: opus erat etiam scientia, quam si omnes consecuti sunt, tamen certe peritiores vetustas facit. Quis ergo adfuit? Frater, inquit, uxoris meae. Si auctoritatem quaerimus, etsi id est aetatis ut nondum consecutus sit, tamen quanta est in adolescente auctoritas, ea propter tantam conjunctionem affinitatis minor est putanda. Sin autem scientia est quaesita, quis erat minus peritus quam is qui paucis illis diebus in collegium venerat? qui etiam tibi erat magis obstrictus beneficio recenti, quum se fratrem uxoris tuae fratri tuo germano antelatum videbat; etsi in eo providisti, ne frater te accusare possit. Hanc tu igitur dedicationem appellas, ad quam non collegium, non honoribus populi Romani ornatum pontificem, non denique adolescentem quemquam, quum haberes in collegio familiarissimos, adhibere potuisti? Adfuit is, si modo adfuit, quem tu impulisti, soror rogavit, mater coegit. Videte igitur, pontifices, quid statuatis in mea caussa de omnium fortunis: verbone pontificis putetis, si is postem tenuerit et aliquid dixerit, domum unius cujusque consecrari posse, an istae dedicationes, et templorum et delubrorum religiones, ad honorem deorum immortalium, sine ulla civium calamitate a majoribus nostris constitutae sint. Est inventus tribunus plebis qui consularibus copiis instructus omni impetu furoris in eum civem irruerit, quem perculsum ipsa res publica suis manibus extolleret. XLVI. Quid, si qui similis istius, neque enim jam deerunt qui imitari velint, aliquem mei dis-

Finally, Gesner concludes, "Populus Romanus potest omnia," referring to Livy (9. c. 46). But we want to know if a tribune could do 'omnia,' even in matters of religion.

Klotz says on this passage (vel etiam cogere): "This seems here merely to mean the calling together, a right (power) which seems to have been indisputably allowed to the tribunes. See Gesner on our passage." We have seen him; and he seems not to have proved his point.

in his omnibus;] Mommsen has discovered that there is a 'lacuna' after 'omnibus;' and he is probably right.—'Frater, inquit:' Perizonius says that the brother is L. Pinarius Natta, and of course the wife's name was Pinaria. Clodius had afterwards a wife named Fulvia. There is a note on Natta, Pro Murena, c. 35.

quanta est] '*quanta quanta*,' Lambinus (Baiter). The French critic wished to set the Latin right. It should be, as Markland says, either 'quantacunque' or 'quanta quanta:' as in the oration Pro Cornelio Balbo, c. 25: "Pecuniam L. Cornelii, quae neque invidiosa est, et quantacunque est, ejusmodi est ut conservata magis quam correpta esse videatur;" and Terence, Adelphi, iii. 3. 40: "Tu quantus quantus nihil nisi sapiens es."—'paucis illis diebus:' 'a few days before.' See Vol. I. Index.

non denique adolescentem] '*non denique [alium praeter illum] adolescentem*, Mommsen' (Baiter).

46. *aliquem mei*] 'quem mei,' Baiter. —'Dicis:' 'Dicitis,' Nic. Angelius.—'repperit:' 'reperiet,' Baiter, who also writes "et pontifex et tribunus pl. idem esse non potest?" The Declamator says that a man might at the same time be a tr. pl. and a pontifex. Other magistrates, a consul for instance, might hold their office and be a pontifex at the same time. I do not know if a tribune

similem, cui res publica non tantum debeat, per vim afflixerit, domum ejus per pontificem dedicaverit, id vos ista auctoritate constituetis ratum esse oportere? Dicis, quem reppererit pontificem? Quid, et tribunus plebis idem esse non potest pontifex? M. Drusus, ille clarissimus vir, tribunus plebis pontifex fuit. Ergo, si is Q. Caepionis inimici sui postem aedium tenuisset et pauca verba fecisset, aedes Caepionis essent dedicatae? Nihil loquor de pontificio jure, nihil de ipsius verbis dedicationis, nihil de religione, caerimoniis: non dissimulo me nescire ea quae etiamsi scirem dissimularem, ne aliis molestus, vobis etiam curiosus viderer; etsi effluunt multa ex vestra disciplina, quae etiam ad nostras aures saepe permanant. Postem teneri in dedicatione oportere videor audisse templi: ibi enim postis est, ubi templi aditus est [valvae]. Ambulationis postes nemo umquam tenuit in dedicando: simu-

could be a pontifex. He says that M. Livius Drusus was a pontifex. Q. Servilius Caepio was the brother-in-law of Drusus, and his enemy. Klotz says: "Wolf has not understood this passage, like many other passages." And he then tells us that Cicero, who is speaking of the great danger to the state if Clodius' proceedings were ratified, supposes it might happen that the same man might be pontifex and tribune, from which would result a union of power in one person which might with impunity attack any man's property and dedicate it. He concludes, "consequently the orator in no respect contradicts himself." This is Wolf's note: "Hoc si verum est, Clodius fortasse plus etiam fecit, quam postulari poterat, quandoquidem Pontificem tamen adhibuit (c. 47). Ita ipse scriptor sua vineta caedit nonnunquam." I leave the reader to form his own conclusion about Wolf not understanding the passage, and about the commentator who charges him with it.

Postem teneri] Markland ridicules this, 'videor audisse;' as if every boy in Rome did not know it, for the dedication of a temple was a public ceremony. Gesner defends the form in which Cicero professes his ignorance of Pontifical Law; and he refers to the passage in the Verrine orations (Vol. I. ii. 4. c. 3, note) in which Cicero pretends to know nothing of Greek art, as in the oration for Murena, c. 30, he makes a kind of excuse for having studied philosophy in his youth. After this and other matters he adds, "this passage is very appropriate and worthy of Tullius' judgment, if any is" (see c. 54). Wolf adds this to the remarks of Gesner and Markland: "Semel professus sum, contrarias animadversiones me allaturum omnes: sed non ubique necesse habeo aliquid subnotare. Pro suo quisque captu interpretetur silentium nostrum."

aditus est] If 'valvae' must be retained, and I suppose that it is in all the MSS., we must write 'aditus et valvae,' as it is generally printed. Markland finds fault with 'ibi enim,' and he asks what 'enim' means in this wretched sentence. He thinks it has no use at all. Gesner explains it. He says that the 'rationalis particula' presents the reason why the Pontifex lays hold of the door-post in the ceremony of dedication. The laying hold of the door-post was a tradition or delivery to the god of his own house. This sounds well, but it is pure nonsense, for a 'traditio' or delivery is not effected without a man to accept. The god should have taken hold of the door-post, or taken the key from the Pontiff and let himself into his house. Gesner refers to the dedication by Horatius Pulvillus (Livy, ii. c. 8) who "tenens postem precationem peragit, et dedicat." The man who performed the ceremony of dedication must show in some way what the thing is which he is going to dedicate, and to lay hold of the door-post would do as well as to touch any other part. But what has all this trifling to do with the matter? and the remark about an 'ambulatio' or 'porticus,' which has no 'postis?' If there is any sense in the passage, the Declamator means to say that the Pontifex held the 'postes ambulationis.' But I leave to others to find out, if they can, what the writer means.

lacrum autem aut aram si dedicasti, sine religione loco moveri potest. Sed jam hoc dicere tibi non licebit, quoniam pontificem postem tenuisse dixisti.

XLVII. Quamquam quid ego de dedicatione loquar, aut quid de vestro jure et religione contra quam proposueram disputabo? Ego vero, si omnia sollemnibus verbis, veteribus et proditis institutis acta esse dicerem, tamen me rei publicae jure defenderem. An, quum tu ejus civis discessu, cujus unius opera senatus atque omnes boni civitatem esse incolumem toties judicassent, oppressam taeterrimo latrocinio cum duobus sceleratissimis consulibus rem publicam teneres, domum ejus, qui patriam a se servatam perire suo nomine noluisset, per pontificem aliquem dedicasses, posset recreata res publica sustinere? Date huic religioni aditum, pontifices, jam nullum fortunis communibus exitum reperietis. An, si postem tenuerit pontifex et verba ad religionem deorum immortalium composita ad perniciem civium transtulerit, valebit in injuria nomen sanctissimum religionis; si tribunus plebis verbis non minus priscis et paene sollemnibus bona cujuspiam consecrarit, non valebit? Atqui C. Atinius patrum memoria bona Q. Metelli, qui eum ex senatu censor ejecerat, avi tui, Q. Metelle, et tui, P. Servili, et proavi tui, P. Scipio, consecravit foculo posito in rostris adhibitoque tibicine. Quid tum? Num ille furor tribuni plebis, ductus ex nonnullis perveterum temporum exemplis, fraudi Metello fuit, summo illi et clarissimo viro? Certe non fuit. Vidimus hoc idem

47. *loquar, . . . disputabo?*] 'Loquor . . . disputo,' Manutius, Baiter. It is not worth the trouble of correcting.

proditis] Nägelsbach, Baiter; 'praeditis' C. The common editions have 'priscis,' which occurs again in this chapter.

sustinere?] What? He leaves us to guess. I suppose 'sustinere' the matter of the 'dedicatio,' and the 'oppressa res publica,' for 'domum' means 'domumque.' But in fact it is the 'domus' only that is in his mind.

We have again a beautiful antithesis without any sense, 'religioni aditum' and 'fortunis exitum.'

in injuria] The reading in the common editions is 'ad injuriam,' for which no authority is cited by Baiter, who has 'in injuria.'—'paene sollemnibus:' not quite 'sollemnibus,' but 'paene' as usual. (Quum Senatui, c. 15, note.)

C. Atinius] Labeo, tribunus pl.: "C. Atinius Labeo tribunus plebis Q. Metellum censorem, a quo in senatu legendo praeteritus erat, de saxo dejici jussit, quod ne fieret ceteri tribuni plebis auxilio fuerunt" (Livy, Epit. 59). This was Metellus Macedonicus. The story is in Pliny, H. N. vii. 44. When he says 'avi tui, Q. Metelle,' he is addressing Metellus Nepos, the consul of this year, as Manutius supposes, for Metellus Celer was dead. But Macedonicus was the 'proavus' of this Metellus, as Manutius admits; and this is therefore a *μηνομονικὸν ἁμάρτημα* as he calls it. Others suppose that he is addressing Metellus Creticus, who was the grandson of Macedonicus, as some critics say, but his pedigree is unknown.

tibicine.] See Vol. II. De Lege Agraria, ii. c. 34. The 'foculus,' or brazier of fire, and the 'tibicen' were used in sacrifices and in consecrations.—'fraudi . . . fuit:' all this did him no harm. In the Pro Cluentio, c. 33: "quae res nemini umquam fraudi fuit."

Cn. Lentulo censori tribunum plebis facere. Numquid igitur is bona Lentuli religione obligavit? Sed quid ego ceteros? Tu, tu, inquam, capite velato, contione advocata, foculo posito, bona tui Gabinii, cui regna omnia Syrorum, Arabum Persarumque donaras, consecrasti. Quod si tum nihil est actum, quid in meis bonis agi potuit? Sin est ratum, cur ille gurges, helluatus tecum simul rei publicae sanguine, ad caelum tamen exstruit villam in Tusculano visceribus aerarii, mihi meas ruinas, quarum ego similem totam urbem esse passus non sum, aspicere non licuit? XLVIII. Omitto Gabinium: quid, exemplo tuo bona tua nonne L. Ninnius, vir omnium fortissimus atque optimus, consecravit? quod si, quia ad te pertinet, ratum esse negas oportere, ea jura constituisti in praeclaro tribunatu tuo, quibus in te conversis recusares, alios everteres. Sin ista consecratio legitima est, quid est quod profanum in tuis bonis esse possit? An consecratio nullum habet jus, dedicatio est religiosa? Quid ergo illa tua tum obtestatio tibicinis, quid foculus, quid preces, quid prisca verba voluerunt? ementiri, fallere, abuti deorum immortalium numine ad hominum * * timorem voluisti? Nam si est illud ratum—mitto Gabinium—tua domus certe et quidquid habes aliud Cereri est consecratum. Sin ille [tibi] ludus fuit, quid te impurius, qui religiones omnes pollueris aut ementiendo aut stuprando? Jam fateor, inquit, me in Gabinio nefarium fuisse. Quippe vides poenam illam a te in alium institutam, in te ipsum esse conversam. Sed homo omnium scelerum flagitiorumque documentum, quod in Gabinio fateris, cujus impudicitiam pueritiae, libidines adolescentiae, dedecus et egestatem reliquae vitae, latrocinium consulatus vidimus, cui ne ista quidem ipsa calamitas injuria potuit accidere, id in me infirmas et gravius

Cn. Lentulo] He was censor with L. Gellius, B.C. 70.—'Numquid:' 'numqua,' Baiter.

Gabinii,] This was done after Gabinius had deserted Clodius. The great villa of Gabinius is mentioned in the Pro Sestio, c. 43, and in the In Pisonem, c. 21. He was raising a villa as high as the clouds out of the 'viscera' of the 'aerarium.' In the oration against Piso, Gabinius is charged with getting his money from the Publicani and the lands and cities of the Provincials, but not out of the 'viscera' of the 'aerarium;' and he employed them 'ad hunc Tusculani montem exstruendum.'

The antithetical conclusion of the sentence is in the Declamator's best style: "if Gabinius is building up a villa to the skies out of the bowels of the treasury, was I not allowed to look at the ruins of mine, I who did not permit the whole city to be like them?"

48. *L. Ninnius,*] The emendation of Garatoni. P. G. V. have 'L. nunius,' and M. has 'lutius.' The common reading in the editions is 'L. Mummius.'

quibus . . . recusares,] I do not see what this means. Wolf asks if he intended to use 'recusare' with a dative, as 'excusare' is used in the later age of the Latins.

quod in Gabinio fateris, . . . id in me infirmas] "What you admit in Gabinius' case, that you acted contrary to religion, do you invalidate in my case, that is, do you not say the same as to the consecration of my house?" (Manutius.)

esse dicis, quod uno adolescente quam quod contione tota teste fecisti?

XLIX. Dedicatio magnam, inquit, habet religionem. Nonne vobis Numa Pompilius videtur loqui? Discite orationem, pontifices, et vos flamines: etiam tu, rex, disce a gentili tuo, quamquam ille gentem istam reliquit; sed tamen disce ab homine religionibus dedito jus totum omnium religionum. Quid in dedicatione, nonne et quis dicit et quid et quomodo quaeritur? An tu haec ita confundis et perturbas, ut, quicumque velit, quod velit, quomodo velit, possit dedicare? Quis eras tu qui dedicabas? quo jure, qua lege, quo exemplo, qua potestate, ubi te isti rei populus Romanus praefecerat? Video enim esse legem veterem tribuniciam quae vetet injussu plebis aedes, terram, aram consecrare. Neque tum hoc ille Q. Papirius, qui hanc legem rogavit, sensit, neque suspicatus est fore periculum, ne domicilia aut possessiones indemnatorum civium consecrarentur. Neque enim id fieri fas erat, neque quisquam fecerat, neque erat caussa, cur prohibendo non tam deterrere videretur quam admonere. Sed quia consecrabantur aedes, non privatorum domicilia, sed quae sacrae nominantur, consecrabantur agri, non ita ut nostra praedia, si qui vellet, sed ut imperator agros de hostibus captos consecraret, statuebantur arae quae religionem afferrent ipsae, si loco essent consecratae, haec, nisi plebs jussisset, fieri vetuit. Quae si tu interpretaris de nostris aedibus atque agris scripta esse, non repugno: sed quaero quae lex lata sit, ut tu aedes meas consecrares, ubi tibi haec potestas data sit, quo jure feceris. Neque ego nunc de religione, sed de bonis omnium nostrum, nec de pontificio, sed de jure publico disputo. L. Lex Papiria vetat aedes injussu plebis consecrari. Sit sane hoc de nostris aedibus ac non de publicis templis. Unum ostende

49. *rex,*] "L. Claudius rex sacrorum," De Haruсp. c. 6. "The Flamines were present; L. Lentulus, the Flamen of Mars, and Sex. Caesar, the Flamen of Quirinus" (Klotz). —'jus totum:' this is the genuine reading, in place of which there is in most editions 'justo, tum omnium religionum perito.'—'quis dicit:' 'quis dedicet,' Baiter's correction. Wolf observes that Ernesti prefers 'dicat,' which would be Cicero's form of speech; but that the indicative is not altogether at variance with the usage of the Romans.—'consecrare:' 'consecrari,' Baiter.

Q. Papirius,] Nothing more is known of this Lex Papiria. It is supposed that it may be the Lex mentioned by Livy (ix. 46): "ex auctoritate senatus latum ad populum est ne quis templum aramve injussu senatus aut tribunorum plebei partis majoris dedicaret." But here it is said (c. 50): "Lex Papiria vetat aedes injussu plebis consecrari;" a very unlikely enactment.

ipsae, si] Nägelsbach, Baiter. The common text is 'ipso si.' Wolf says of this sentence, 'non ita ut . . . vetuit:' "Hic non satis est singula verba reprehendere, ut Graevius fecit et Ernestius: universus locus et sententia et constructione misere laborat. Sed nihil ad vivum reseco, nausea victus." Who does not feel this nausea? He begins again with his tedious stuff; and says it over again: "Sit sane hoc de nostris aedibus."

verbum consecrationis in ipsa tua lege, si illa lex est ac non vox sceleris et crudelitatis tuae. Quod si tibi tum in illo rei publicae naufragio omnia in mentem venire potuissent, aut si tuus scriptor in illo incendio civitatis non syngraphas cum Byzantiis exsulibus et cum legatis * * * faceret, sed vacuo animo tibi ista non scita, sed portenta conscriberet, esses omnia, si minus re, at verbis legitimis consecutus. Sed uno tempore cautiones fiebant pecuniarum, foedera feriebantur provinciarum, regum appellationes venales erant, servorum omnium vicatim celebrabatur tota urbe descriptio, inimici in gratiam reconciliabantur, imperia adscribebantur nova juventuti, Q. Seio venenum misero parabatur, de Cn. Pompeio propugnatore et custode imperii interficiendo consilia inibantur, senatus ne quid esset, ut lugerent boni semper, ut capta res publica consulum proditione, vi tribunicia teneretur. Haec quum tot tantaque agerentur, non mirum est, praesertim in furore animi et caecitate, multa illum et te fefellisse.

At videte quanta sit vis hujus Papiriae legis in re tali, non qualem tu affers sceleris plenam et furoris. Q. Marcius censor signum Concordiae fecerat, idque in publico collocarat. Hoc signum C. Cassius censor quum in curiam transtulisset, collegium vestrum consuluit, numquid esse caussae videretur quin id signum curiamque Concordiae dedicaret. LI. Quaeso, pontifices, et hominem cum homine, et tempus cum tempore, et rem cum re comparate. Ille erat summa modestia et gravitate censor: hic tribunus plebis scelere et audacia singulari. Tempus illud erat tranquillum, et in libertate populi et gubernatione positum senatus: tuum porro tempus libertate populi Romani oppressa, senatus auctoritate deleta. Res illa plena justitiae, sapientiae, dignitatis: censor enim, penes quem majores nostri, id quod tu sustulisti, judicium

50. *rei publicae naufragio*] This is followed by an 'incendium civitatis.' The author makes all this magnificent prelude to explain how it happened that Clodius and his 'scriptor' Sex. Clodius (c. 18) forgot to say any thing about the 'consecratio' in the Lex which was drawn up, prepared, and enacted about Cicero. They were so busy about other things that they forgot the principal thing.

syngraphas] 'contracts in writing' (Vol. 1. Verr. ii. 1. c. 36) with the exiles of Byzantium, and with 'legati.' Baiter follows Halm, who writes 'cum legatis Brogitari;' in place of which 'Brogitari' the MSS. which Baiter cites have 'rogitaris' and 'rogitatis.' The authority for the emendation is the passages in the De Harusp. c. 14, and Pro Sestio, c. 26.

regum appellationes] The Romans often gave to foreign princes the title of king, or admitted their rank by using the title in addressing them. Even a German barbarian "rex appellatus esset a senatu" (Caesar, B. G. i. 43). I do not know if 'regum appellationes' is Ciceronian.

C. Cassius] Longinus, censor B.C. 154. Q. Marcius was censor B.C. 164.

51. *Tempus . . . in libertate, &c.*] A singular expression, something 'inauditum' or 'paene inauditum.'—'judicium senatorum,' Baiter.

senatus de dignitate esse voluerunt, Concordiae signum volebat in curia curiamque ei deae dedicare. Praeclara voluntas atque omni laude digna. Praescribere enim se arbitrabatur, ut sine studiis dissensionis sententiae dicerentur, si sedem ipsam ac templum publici consilii religione Concordiae devinxisset. Tu quum ferro, quum metu, quum edictis, quum privilegiis, quum praesentibus copiis perditorum, absentis exercitus terrore et minis, consulum societate et nefario foedere servitute oppressam civitatem teneres, Libertatis signum posuisti magis ad ludibrium impudentiae quam ad simulationem religionis. Ille in curia quae poterat sine cujusquam incommodo dedicari * * tu in civis optime de re publica meriti cruore ac paene ossibus simulacrum non libertatis publicae, sed licentiae collocasti. Atque ille tamen ad collegium rettulit: tu ad quem rettulisti? Si quid deliberares, si quid tibi aut piandum, aut instituendum fuisset religione domestica, tamen instituto ceterorum vetere ad pontificem detulisses: novum delubrum quum in urbis clarissimo loco, nefando quodam atque inaudito instituto, inchoares, referendum ad sacerdotes publicos non putasti? At si collegium pontificum adhibendum non videbatur, nemone horum tibi idoneus visus est, qui aetate, honore, auctoritate antecellunt, ut cum eo dedicationem communicares? Quorum quidem tu non contempsisti, sed pertimuisti dignitatem. LII. An tu auderes quaerere ex P. Servilio, aut ex M. Lucullo, quorum ego consilio atque auctoritate rem publicam consul ex vestris manibus ac faucibus eripui, quibusnam verbis aut quo ritu, primum hoc dico, civis domum consecrares; deinde civis ejus, cui princeps senatus, tum autem ordines omnes, deinde Italia tota, post cunctae gentes testimonium hujus urbis atque imperii conservati dedissent? Quid diceres, o nefanda et perniciosa labes civitatis?—Ades, [ades,]

Praescribere] Hard to understand. Perhaps Wolf has discovered the meaning: "Planioribus verbis: Sperabat in Senatu protinus nullas dissensiones futuras esse, si curiam deae Concordiae dedicasset. Vah! callidum consilium! praeclaram voluntatem!"

absentis exercitus] Caesar's. I suppose it had now left the gates of Rome (Quum Senatui, c. 13, note).—'impudentiae' P., 'impudicitiae' M. V.

paene ossibus] If in the blood, why not in the bones too? But the writer knew what he was about. It was 'almost in the bones.' See Quum Senatui, c. 15, note.

quodam atque inaudito] 'Supra versum habet P²,' Baiter; who puts these words in [ ]; but this is a mistake. 'Inauditus' is one of this writer's favourite words; and it would be as improper to omit it as to omit 'paene' before 'ossibus.'

dedicationem] 'de dedicatione,' Halm, followed by Baiter.

52. *princeps senatus,*] He may mean the Senate first; he can hardly mean the 'princeps' of the Senatus.—'labes:' one of his favourite words, like 'paene.'

Ades, [ades] . . . teneatis.] Markland observes that Brissonius de Form. i. p 126 (103), took from this passage the form of words by which the Pontifex was used to call the magistrates to the ceremony of dedication. And Markland adds that there would be no reason to hesitate about this, if

Luculle, Servili, dum dedico domum Ciceronis, ut mihi praeeatis postemque teneatis.—Es tu quidem quum audacia, tum impudentia singulari; sed tibi tamen oculi, vultus, verba cecidissent, quum te viri, qui sua dignitate personam populi atque auctoritatem imperii sustinerent, verbis gravissimis perterruissent, neque sibi fas esse dixissent furori interesse tuo atque in patriae parricidio et scelere. Quae quum videres, tum te ad tuum affinem, non delectum a te, sed relictum a ceteris contulisti. Quem ego tamen credo, si est ortus ab illis, quos memoriae proditum est ab ipso Hercule perfuncto jam laboribus sacra didicisse, in viri fortis aerumnis non ita crudelem fuisse, ut in vivi etiam et spirantis capite bustum suis manibus imponeret; qui aut nihil dixit nec fecit omnino, poenamque hanc maternae temeritatis tulit, ut mutam in delicto personam nomenque praeberet; aut si dixit aliquid verbis haesitantibus, postemque tremebunda manu tetigit, certe nihil rite, nihil caste, nihil more institutoque perfecit. Viderat ille Murenam, vitricum suum, consulem designatum, ad me consulem cum Allobrogibus communis exitii indicia afferre; audierat ex illo se a me bis salutem accepisse, separatim semel, iterum cum universis. Quare quis est

a similar example were found elsewhere; but as it is, we must consider that we are only reading a 'sententiola' of the writer.

It is hard to conceive how the learned Brissonius was taken in by this.

et scelere.] '*excellere* nos,' Baiter: 'et scelere,' C. The original is bad enough; but the emendation is a great deal worse.

Quem ego tamen . . . didicisse,] "Haec verba sine ulla memorabili varietate laudantur a Servio ad Virg. Aen. viii. 269, ubi Grammaticus affert 'Ciceronem auctorem, qui in *De Domo sua*, Pinarium Nattam appellans, sic dicit: *Quem ego*, &c.,' si modo ab ipso Servio haec auctoritas adscripta est. Quamquam non est dubium quin aetas Serviana hanc et reliquas tres orationes pro Ciceronianis legerit" (Wolf).

The allusion is to L. Pinarius Natta, the stepson of Murena (Pro Murena, c. 35). The Pinarii and Potitii are mentioned by Livy (i. 7): "Ibi tum bove eximia capta de grege, sacrum Herculi, adhibitis ad ministerium dapemque Potitiis ac Pinariis, quae tum familiae maxime inclytae ea loca incolebant, factum."

capite bustum] Garatoni, Baiter: 'capitibustum' P. G. M., 'capitibus cum' V. Whether we take this reading or 'caput bustum,' we have the strange expression of placing a 'bustum' on the head of a living man, even a breathing man (stranger still that a living man should breathe), which signifies, it is said, to take the statue from the 'bustum' of a 'meretrix' (c. 43) and place it, as Manutius says, "in meas aedes me vivo et adhuc spirante." Manutius read 'et jam' for 'etiam.'

Klotz translates this: "That he should have erected a tombstone on the head of a still living and breathing man;" and he adds, "These words are intelligible by themselves. When Manutius and Wolf, the latter even with ill-will to the author of this speech, understood by *bustum* precisely the statue from the tomb of the Tanagraean 'meretrix,' they were in error. At the most Cicero might here have intended merely an allusion to it. The gravestone is directly applicable to his political death." If Klotz has got the right meaning, and I think that he has, the Declamator still speaks absurdly. A 'bustum' is a place where a body is burnt (bur, to burn), and also a tomb where the remains are placed; in which it differs from a 'monumentum,' which is simply a memorial, whether the remains are there or not. Cicero says (De Leg. ii. 26): "poenaque est si quis bustum, nam id puto appellari τύμβον, aut monumentum, inquit, aut columnam violarit, dejecerit, fregerit."—'aut fecit,' V.

Quare quis est . . . metu concidisse,] "Nemo profecto est, qui sic existimare

qui existimare possit huic novo pontifici primam hanc post sacerdotium initum religionem instituenti vocemque mittenti non et linguam obmutuisse et manum obtorpuisse et mentem debilitatam metu concidisse, praesertim quum ex collegio tanto non regem, non flaminem, non pontificem videret, fierique particeps invitus alieni sceleris cogeretur, et gravissimas poenas affinitatis impurissimae sustineret?

LIII. Sed ut revertar ad jus publicum dedicandi, quod ipsi pontifices semper non solum ad suas caerimonias, sed etiam ad populi jussa accommodaverunt, habetis in commentariis vestris C. Cassium censorem de signo Concordiae dedicando ad pontificum collegium rettulisse, eique M. Aemilium pontificem maximum pro collegio respondisse, nisi eum populus Romanus nominatim praefecisset, atque ejus jussu faceret, non videri ea recte posse dedicari. Quid, quum Licinia, virgo Vestalis, summo loco nata, sanctissimo sacerdotio praedita, T. Flaminino Q. Metello consulibus, aram et aediculam et pulvinar sub saxo sacro dedicasset, nonne eam rem ex auctoritate senatus ad hoc collegium Sex. Julius praetor rettulit? quum P. Scaevola pontifex maximus pro collegio respondit, Quod in loco publico Licinia, C. f., injussu populi dedicasset, sacrum non viderier.—Quam quidem rem quanta severitate, quantaque diligentia senatus * * ex ipso senatusconsulto facile cognoscetis. S. C. Videtisne praetori urbano negotium datum, ut curaret ne id sacrum esset, et ut, si quae essent incisae aut inscriptae litterae, tollerentur? O tempora! o mores! Tum censorem, hominem sanctissi-

possit; ac multo melius fuisset, si nugacissimo scriptori jam dudum manus obtorpuisset: mentem debilitatam ejus ubique videmus" (Wolf).

53. *dedicandi,*] M., 'judicandi' P. G. V. (*jus* aliquid publicum *esse* judicandi), Baiter, who has 'judicandi.' See c. 54: "quae sunt adhuc a me de jure dedicandi disputata."

C. Cassium] The story told over again, c. 50, 51.

non videri ea] 'non videri eam,' Baiter; 'eam' meaning 'Concordiam.'—'T. Flaminio,' Baiter. T. Flamininus, cos. B.C. 123.

sub saxo] A rock on the Aventine, under which there was a temple of the Bona Dea, called Subsaxana:

"—— Interea Diva canenda Bona est.
Est moles nativa, loco res nomina fecit;
Appellant saxum. Pars bona montis ea est.
Huic Remus institerat frustra, quo tempore fratri
Prima Palatinae signa dedistis aves.
Templa patres illic oculos exosa viriles
Leniter acclivi constituere jugo."
(Ovid, Fasti, v. 148.)

It was on one of the slopes of the Aventine.

senatus] 'senatus C.,' Baiter. A word is wanting here. Some have 'sustulerit.' Halm proposes 'egerit.' I suppose that 'sustulerit' is in some of the MSS. "This expression cannot in the slightest degree appear obscure here, where the discourse is about the abolition of the priestly dedication, and this appears from what precedes as well as from what follows, clear enough, if people do not choose to be blind" (Klotz). This is in reply to Wolf, I suppose, who professed not to understand 'sustulerit.' It seems to me as easy to understand as any other part of this oration; but whether 'sustulerit' is the genuine word or not I do not know.

mum, simulacrum Concordiae dedicare pontifices in templo inaugurato prohibuerunt, post autem senatus in loco augusto consecratam eam aram tollendam ex auctoritate pontificum censuit, neque ullum est passus ex ea dedicatione litterarum exstare monumentum: tu, procella patriae, turbo ac tempestas pacis atque otii, quod in naufragio rei publicae tenebris offusis, demerso populo Romano, everso atque ejecto senatu, dirueris, aedificaris, religione omni violata religionis tamen nomine contaminaris, in hisce rebus ut in urbe, quam suis laboribus ac periculis conservasset, monumentum deletae rei publicae collocaris, ab equitum nota doloris bonorum omnium, sublatoque Q. Catuli nomine incideris, id sperasti rem publicam diutius quam quoad mecum simul expulsa careret his moenibus, esse laturam?

LIV. At si, pontifices, neque is cui licuit, neque id quod fas fuit dedicavit, quid me attinet jam illud tertium quod proposueram, docere, non iis institutis ac verbis quibus caerimoniae postulant dedicasse? Dixi a principio, nihil me de scientia vestra, nihil de sacris, nihil de abscondito jure pontificum dicturum. Quae sunt adhuc a me de jure dedicandi disputata, non sunt quaesita ex occulto aliquo genere litterarum, sed sumpta de medio, ex rebus palam per magistratus actis ad collegiumque delatis, ex senatusconsulto, ex lege. Illa interiora jam vestra sunt, quid dici, quid praecipi, quid tangi, quid teneri jus fuerit. Quae si omnia e Coruncanii scientia, qui peritissimus pontifex fuisse dicitur, acta

templo inaugurato] Hotmann observes that it is well known that the Senate could not meet except in an 'inauguratus locus;' and therefore 'inaugurato' is superfluous. But this writer is always superfluous. So in c. 50 there is 'publica templa.'

consecratam eam] 'consecratam jam,' Baiter, which is better. The MSS. have 'eam.'

demerso populo] Clodius was the tempest of the 'patria,' in which tempest the Res Publica was wrecked in the darkness of the storm. He has forgot to tell us what the sea was, but there must have been a sea or there could not have been a storm and shipwreck. Clodius, 'the storm, the tempest of peace and quiet,' when the state was wrecked in darkness, the Roman people drowned, the Senate kicked overboard (he might have drowned them with the 'populus'), in the midst of this confusion, Clodius pulled down, built up, and had his name cut on the building that he erected (for, as Wolf says, 'tuum' is wanted). After this miserable stuff, after this wreck of the Res Publica, we are told that it was not drowned but expelled with Cicero, as he has told us before (Quum Senatui, c. 14). "Denique *respublica,* aliis locis *exterminata,* nunc inscitius dicitur *carere his moenibus.* Nam illud excusari posset collato loco de provv. conss. c. 2" (Wolf). The latter part of the sentence is corrupt. The reading in the editions is 'ad equitum notam,' to which the reading of G. M. V. comes very near, 'ab (ob M.) equitum notam doloris.' After 'ad equitum notam' the common editions have 'ad dolorem bonorum omnium.' Clodius hated the 'equites,' and wished to insult them because they were Cicero's friends.

54. *Dixi a principio,*] c. 15.—'praecipi:' 'praere' P.: the other readings are 'praecipere' and 'percipere.' Halm would write 'praeire,' and Mommsen 'praeberi.'

Coruncanii] Ti. Coruncanius, the first plebeian who was Pontifex Maximus (Livy, Epit. 18); and about B.C. 254. He was learned in the Jus Pontificium and an honourable man. (Cicero, Brutus, c. 14.)

esse constarent, aut si M. Horatius ille Pulvillus, qui, quum eum multi propter invidiam fictis religionibus impedirent, restitit, et constantissima mente Capitolium dedicavit, hujusmodi alicui dedicationi praefuisset, tamen in scelere religio non valeret, ne valeat id, quod imperitus adolescens, novus sacerdos, sororis precibus, matris minis adductus, ignarus, invitus, sine collegis, sine libris, sine auctore, sine fictore, furtim, mente ac lingua titubante fecisse dicatur; praesertim quum iste impurus atque impius hostis omnium religionum, qui contra fas et inter viros saepe mulier et inter mulieres vir fuisset, ageret illam rem ita raptim et turbulente uti neque mens neque vox neque lingua consisteret. LV. Delatum est ad vos, pontifices, et post omnium sermone celebratum, quemadmodum iste praeposteris verbis, ominibus obscenis, identidem se ipse revocando, dubitans, timens, haesitans omnia aliter ac vos in monumentis habetis et pronuntiarit et fecerit. Quod quidem minime mirum est, in tanto scelere tantaque dementia ne audaciae quidem locum ad timorem comprimendum fuisse.

The story of Pulvillus and of his dedication of the temple of Jupiter on the Capitoline is told by Livy (ii. 8). His enemies attempted to stop him in the dedication by announcing to him the death of his son; but he went on with the ceremony.

fictore,] Graevius has a note on the 'Fictores Pontificum,' a term which occurs in some inscriptions. They were called, as Varro (L. L. vii. 44, ed. Müller) says, "Fictores dicti a fingendis libis."

55. *Delatum est*] Information was carried to the Pontifices about a thing which we cannot suppose that they knew nothing of. "Supra (c. 52) in dubio ponebatur, an omnino aliquid dixerit aut fecerit Pontifex: nunc etiam omnium sermone celebratum dicitur, quo quidque modo factum sit et pronuntiatum. Quamquam ex seqq. intelligitur oratorem nunc non de Pinario loqui, sed de Clodio. Quibus tandem cachinnis talia aegri capitis somnia excepturi fuissent eruditi, si Ciceronem ridere fas esset! Jam haec et multa alia, spero, tirunculis risum exprimere" (Wolf). 'Docere' is 'verba praeire.'

Klotz remarks on this remark of Wolf: "Here also Wolf is doubly in error. For in the first place we may easily reconcile Cicero's speaking (c. 52, and also c. 54) of the dedication of the Pontifex as of an act altogether without evidence, and yet saying here that the Pontifices were informed how irregularly every thing had been done. He leaves it in no doubt if P. Clodius had done the dedication, but only if Natta had first uttered the formula, and that uncertainty is not removed even by this passage. When however Wolf expresses his surprise that P. Clodius is now all at once introduced as speaking and acting, he did not consider what the proper business of the Pontifex was in such a dedication. The dedication could only be accomplished by the Magistratus, and the Pontifex supplied for that purpose only the words and formulae: he was, so to speak, only the interpreter or souffleur (prompter). For this the proper expressions were 'praeire,' 'docere.' Accordingly no one can be surprised, if the discourse is here chiefly about P. Clodius, because as tribunus plebis he was the chief person at the ceremony."

The Declamator (c. 54) first speaks of Natta as 'novus sacerdos,' 'mente ac lingua titubante;' then he speaks of Clodius 'iste impurus' and how he managed the business. Again (c. 55) we have Clodius (iste) fearing, hesitating; and again we have his 'perturbatio mentis,' and his failure in the ceremony 'in agendo ruere et saepe peccare,' his souffleur being compelled to tell him the formula, though he had never learned it; which would account very well for the failure of the whole business. Finally, at the end of the chapter Clodius (iste) could not utter one single word which the occasion required. Let any man compare all this with the part that Natta plays in c. 52, and decide between the two Germans.

Etenim, si nemo unquam praedo tam barbarus atque immanis fuit, qui, quum fana spoliasset, deinde aram aliquam in littore deserto somniis stimulatus aut religione aliqua consecraret, non horreret animo, quum divinum numen scelere violatum placare precibus cogeretur, qua tandem istum perturbatione mentis omnium templorum atque tectorum totiusque urbis praedonem fuisse censetis, quum pro detestatione tot scelerum unam aram nefarie consecraret? Non potuit ullo modo—quamquam et insolentia dominatus extulerat animos et erat incredibili armatus audacia,—non in agendo ruere ac saepe peccare, praesertim illo pontifice et magistro, qui cogeretur docere antequam ipse didicisset. Magna vis est quum in deorum immortalium numine, tum vero in ipsa re publica. Dii immortales suorum templorum custodem ac praesidem sceleratissime pulsum quum viderent, ex suis templis in ejus aedes immigrare nolebant. Itaque istius vecordissimi mentem cura metuque terrebant. Res vero publica, quamquam erat exterminata mecum,

pro detestatione] "To appease the deities for his crimes." This fine sentence, this beautiful contrast between a 'praedo barbarus' and a 'praedo urbis,' contains a number of antitheses as usual. The most striking is 'some altar' and the consecration under the 'stimulant of dreams or some religious fear;' and 'one altar' and the consecration 'nefarie.' We are also asked to judge of the mental perturbation of the man whom all the city saw and talked about and carried the news to the Pontifices, of the man whose perturbation was in Rome, by comparing him with the pirate on the desert shore, where nobody could see him, none of Cicero's hearers at least had seen him, whose horror was not felt when he plundered the temples, but when stimulated by dreams or some religion he was compelled to appease the deities by prayer. It is generally supposed that prayer and sacrifice soothed the mind. Here the horror is only felt when the act of expiation is doing; and the Pontifices must measure by the mental perturbation of the solitary pirate the perturbation of the man whose crime all Rome had seen.

custodem ac praesidem] He calls himself the 'custos ac praeses' of the temples. How could he do that? He could say that he saved the city from conflagration at the time of the conspiracy; but that did not constitute him 'custos ac praeses,' as he says that he was when he left Rome. But the end of the sentence as usual clears up such difficulties. The gods would not go from their temples to the house of a man who was the guardian of their temples and was driven away. And for a good reason. Who would take care of their temples when they and their 'custos' were gone? This is the 'magna vis in deorum immortalium numine;' just sense enough not to quit their houses without leaving somebody to take care of them. "Accordingly (itaque) they terrified the man." This is one of the Declamator's 'itaques;' which mean as much as his 'paene' (Quum Senatui, c. 15). But all the immortal gods were not invited to Cicero's house. We have only heard of Libertas, an inferior personage; and she accepted the invitation. Such puerile trifling is disgusting: still more disgusting to find men who explain and defend it. Cicero often speaks of the immortal gods and says many strange things about them; but as he knew what words meant, he does not fall into such intolerable absurdity. A man may have to talk of ridiculous things, as Roman superstition was, but a sensible man can talk about them without making a fool of himself.

exterminata] The old story again (c. 53). The reading 'extinctoris,' P. G., has been changed in some editions into 'exterminatoris,' for which Wolf says there is some MSS. authority, and that the word would agree better with 'exterminata.' But that is a reason why we should not prefer it, for the writer never is consistent nor does he keep to his metaphors.—'indomito,' Halm, Baiter. C. has 'inito.' The common read-

tamen obversabatur ante oculos exstinctoris sui et ab istius inflammato atque indomito furore jam tum me seque repetebat. Quare quid est mirum, si iste metus furore instinctus, scelere praeceps, neque institutas caerimonias persequi neque verbum ullum sollemne potuit effari?

LVI. Quae quum ita sint, pontifices, revocate jam animos vestros ab hac subtili nostra disputatione ad universam rem publicam, quam antea cum viris fortibus multis, in hac vero caussa solis vestris cervicibus sustinetis. Vobis universi senatus perpetua auctoritas, cui vosmet ipsi praestantissimi semper in mea caussa praefuistis; vobis Italiae magnificentissimus ille motus municipiorumque concursus; vobis campus, centuriarumque una vox omnium, quarum vos principes atque auctores fuistis; vobis omnes societates, omnes ordines, omnes, qui aut re aut spe denique sunt bona, omne suum erga meam dignitatem studium et judicium non modo commissum, verum etiam commendatum esse arbitrabuntur. Denique ipsi dii immortales, qui hanc urbem atque hoc imperium tuentur, ut esset omnibus gentibus posteritatique perspicuum divino me numine esse rei publicae redditum, idcirco mihi videntur fructum ipsum reditus et gratulationis meae ad suorum sacerdotum potestatem judiciumque revocasse. Hic est enim reditus, pontifices, haec restitutio, in domo, in sedibus, in aris, in focis, in diis penatibus recuperandis; quorum si iste suis sceleratissimis manibus tecta sedesque convellit, ducibusque consulibus, tamquam urbe capta hanc unam domum, quasi acerrimi propugnatoris, sibi delendam putavit, tamen illi dii penates ac familiares mei per vos in meam domum mecum erunt restituti. LVII. Quocirca te, Capitoline,

ing in the editions is 'ignito,' for which there is authority (Franc. et Dresd.).

We have just seen what the 'magna vis in deorum immortalium numine' was. We were told there was also a great 'vis in ipsa re publica;' and here it is: "Though banished with Cicero, still the 'res publica' was present before the eyes of its extinctor, and from his fiery and untamed fury even at the moment demanded back me—and itself." This was enough to confound the fellow and stop his mouth (neque verbum ullum sollemne potuit effari).

56. *subtili nostra disputatione*] "Immo *futili*. Quam mutationem si quis pro emendatione accipere volet, non minus deerit Ciceronis auctoritas quam in tot aliis correctionibus. Quippe et hoc est vocabulum Ciceronianum. Mox Lambinus corrigit *soli vestris cervicibus* pro *solis*, recta Latinitate, etsi idem significare voluit Auctor, non *cervices* opponere *pedibus* aut aliis partibus corporis" (Wolf).—'solis:' 'soli,' Baiter.

omne suum] 'omnes hi suum,' Graevius; 'omne suum,' Garatoni. In some old editions it was 'omne vobis.' 'Omnes tum,' C.

non modo commissum, verum etiam commendatum] "Particulae *verum etiam* appositae voci levioris dignitatis, de qua elegantia vide Quum Senatui, c. 5" (Wolf). See the note on Quum Senatui, c. 5: "*in contionem escendit.*"

Hic . . . haec restitutio, in domo, &c.] "H. e. simplicius: Tum mihi vere redisse ac restitutus esse videbor, quum domum meam, sedes etc. recuperavero" (Wolf). But this Declamator never says any thing in a plain, simple way.

57. *Quocirca te, Capitoline,*] This mag-

quem propter beneficia populus Romanus Optimum, propter vim Maximum nominavit, teque, Juno Regina, et te, custos urbis, Minerva, quae semper adjutrix consiliorum meorum, testis laborum exstitisti, precor atque quaeso; vosque, qui maxime me repetistis atque revocastis, quorum de sedibus haec mihi proposita est contentio, patrii penates familiaresque, qui huic urbi et rei publicae praesidetis, vos obtestor, quorum ego a templis ac delubris pestiferam illam et nefariam flammam depuli; teque, Vesta mater, cujus castissimas sacerdotes ab hominum amentia, furore et scelere

niloquent conclusion resembles that of the last of the Verrine orations (Vol. I. ii. 5). "That nobody take offence at these lengthy spun-out sentences, we refer to the speeches against Verres (v. c. 75)" (Klotz). This sentence begins at 'Quocirca' and ends with 'putabo.' Mommsen proposes 'ab hominum amentium furore et scelere,' which Baiter accepts, and it is an improvement, if we can improve that which is past cure. There is no sense in the sentence, and no connexion between the beginning and the end. For as Wolf observes, he says this: "Quocirca te . . . precor et quaeso—ut, . . . si objeci meum caput . . . et si iterum . . . vos sum testatus, vobis me ac meos devovi, ut si . . . laborassem, tum mihi re publica aliquando restituta liceret frui," and so on to 'putabo.' We must examine the conclusion first, and see if we can get from that to the premises: "I shall consider this 'devotio' of my head, if I shall be restored to my house, then at last 'convicta et commissa.'" In the Quum Populo, c. 1, he says, 'ejus devotionis esse convictum' (note). Those are 'convicti votorum,' I suppose, who are 'damnati votorum,' who are bound to perform their vow (Livy, v. 25). Here the 'devotio' is 'convicta,' which means no more than proved, if there is sense in a 'devotio' 'proved.' Caesar (B. G. 1. 40) has 'avaritiam esse convictam,' 'whose avarice is proved;' and it is opposed to 'innocentiam perspectam,' 'integrity approved.' Cicero, Pro Quintio, c. 25, says: "volo inauditum facinus ipsius qui id commisit voce convinci." We know then what 'devotio convicta' might mean. The Declamator adds 'commissam.' A thing is 'commissa' when the conditions of an agreement are such that there is a forfeiture or loss to one party in consequence of something not being done or not having happened (Verr. ii. 1. c. 10; Vol. II. Pro Flacco, c. 21). Some of the critics say that 'devotio convicta et commissa' means 'adimpleta.' Graevius says: "Nunc nondum est commissa, quia nondum fruor republica restituta, qui tota urbe careo, ut in sequentibus dicit. Sic *commissa stipulatio*, quae impleta est facto et commisso promissoris, ut docet Salmasius de Usurarum, c. 14, quem vide." Si tanti est.

All this explanation is entirely false, contrary to the usage of Cicero, and contrary to the technical meaning of the word 'commissa.' If that part of the terms of a contract 'lex commissoria,' which contained the condition, was broken, the 'lex' or terms were said to be 'commissa,' as Papinian (Dig. 18. 3. 4. § 2) says, and he is an authority for law and for Latin too. The conclusion is, that these words mean the 'devotio' is 'convicted,' whatever that may mean, for I do not know, and also 'forfeited;' and we know that this means nothing at all here.

Having shown that the end of the sentence is nonsense, which is something different from leaving the reader to find out that he cannot understand it, I say nothing of the rest except that there is no meaning in it, and that the construction is false. Wolf, after quoting the false explanation of 'convicta et commissa,' adds: "Ego vero puto, si *damnatam devotionem* scripsisset Rhetor, eadem arte illos id explicare et defendere ausuros fuisse. Adderem praeterea aliquid, nisi istos metuerem, qui mera mendacia ad oratoriam fidem pertinere putant. Mentiri dicerem Ciceronem nostrum in altero utro horum locorum (Quum Populo, c. 1, and this passage), quoniam in hoc vota a se diis facta refert ad restitutionem domus, in illo ad ipsum reditum in patriam: ex quo illic profitetur se *jam votorum compotem factum esse*, atque de ea re *laetatur*, hic autem *factum se iri* postero tempore *putat*, immo *putabit*. Sed haec variatio, si ingeniose instituta esset, promptiorem ex consilio oratoris excusationem haberet."

defendi, cujusque ignem illum sempiternum non sum passus aut sanguine civium restingui, aut cum totius urbis incendio commisceri; ut, si in illo paene fato rei publicae objeci meum caput pro vestris caerimoniis atque templis perditissimorum civium furori atque ferro, et si iterum, quum ex mea contentione interitus bonorum omnium quaereretur, vos sum testatus, vobis me ac meos commendavi, meque atque meum caput ea conditione devovi, ut, si et eo ipso tempore et ante in consulatu meo, commodis meis omnibus, emolumentis, praemiis praetermissis, cura, cogitatione, vigiliis omnibus nihil nisi de salute meorum civium laborassem, tum mihi re publica aliquando restituta liceret frui; sin autem mea consilia patriae non profuissent, ut perpetuum dolorem avulsus a meis sustinerem; hanc ego devotionem capitis mei, quum ero in meas sedes restitutus, tum denique convictam esse et commissam putabo. Nam nunc quidem, pontifices, non solum domo, de qua cognoscitis, sed tota urbe careo, in quam videor esse restitutus. Urbis enim celeberrimae et maximae partes adversum illud non monumentum, sed vulnus patriae contuentur. Quem quum mihi conspectum morte magis vitandum fugiendumque esse videatis, nolite, quaeso, eum

Nam nunc quidem . . . esse privatum.] Markland could not digest this; and he pointed out the absurdity of the opposition of the 'urbs tota' and the 'urbis partes.' Such a passage cannot easily be found elsewhere. The Declamator says: "I am deprived not only of my house, but of the whole city to which I am supposed to be restored. *For* the most frequented and greatest parts (in what sense he does not say) look right in the face, not of that edifice, but of the Patria's wound."—We must here suppose that though he only appeared to be restored, he was in body in the most frequented and greatest parts, and that he was looking from those parts right in the face of the Patria's wound.—For he continues, "and since you see that this is a sight that I ought to shun and fly from worse than death, do not, I pray, allow me to be deprived not only of the honours due to my rank, but also of parts of the city—the most frequented and greatest parts."

Markland, who saw the absurdity of the passage, and said that the man was either stupid or drunk when he wrote it, did not however see the meaning; and Gesner did. The Englishman saw there was nothing in the sentence but absurdity; and he had not patience to get at the meaning of the man. The German found out what the simpleton meant to say; and he admired it. That is the difference between the two. I have promised to give no more of Gesner's notes, but I cannot omit this. It is fair to show that he understood his writer: "Locus mihi videtur inter vehementiae oratoriae specimina referendus. Verba, *nam nunc—restitutus*, non ad verbum, sed figura quadam dicta esse, res ipsa clamat: loquitur enim in Urbe Tullius. Sed nempe *caret* re aliqua, qui illa non fruitur; caret urbe, qui ea non fruitur, qui discedere malit, quam adesse etc. Satis hoc declarant quae sequuntur: *Urbis enim celeberrimae et maximae partes* (quibus qui caret, h. e. abstinet, ne adspectus dolorem moveat) tota Urbe videtur carere) *adversum illud—esse videatis* etc. Sermo est de summo cive, qui in luce, in foro versari vult, si in Urbe sit, qui se non putet in Urbe esse, Urbem videre, si in foro esse sine summo dolore et ignominia non liceat." Wolf prints the Englishman's and the German's note. He says nothing.

Mommsen thinks that 'partibus' is a glossema. What would the sentence gain by its omission? There is every objection to omitting it, both objections founded on the form of the sentence and our knowledge of the writer's style.

cognoscitis,] M. V., 'cognostis' P. G., Baiter.

cujus reditu restitutam rem publicam fore putastis, non solum dignitatis ornamentis, sed etiam urbis partibus velle esse privatum. LVIII. Non me bonorum direptio, non tectorum excisio, non depopulatio praediorum, non praeda consulum ex meis fortunis crudelissime capta permovet: caduca semper et mobilia haec esse duxi, non virtutis atque ingenii, sed fortunae et temporum munera; quorum ego non tam facultatem umquam et copiam expetendam putavi quam et in utendo rationem et in carendo patientiam. Etenim ad nostrum usum propemodum jam est definita moderatio rei familiaris; liberis autem nostris satis amplum patrimonium paterni nominis ac memoriae nostrae relinquemus: domo per scelus erepta, per latrocinium occupata, per religionis vim sceleratius etiam aedificata quam eversa, carere sine maxima ignominia rei publicae, meo dedecore ac dolore non possum. Quapropter, si diis immortalibus, si senatui, si populo Romano, si cunctae Italiae, si provinciis, si exteris nationibus, si vobismetipsis, qui in mea salute principem semper locum auctoritatemque tenuistis, gratum et jucundum meum reditum intelligitis esse, quaeso obtestorque vos, ponti-

58. *Non me . . . tectorum excisio . . . permovet . . . non possum.*] Markland observes that there is contradiction in this sentence between the beginning and the end; but he concludes that the man meant to say this: "non ceterorum tectorum excisio me permovet: urbana autem domo etc." On which Gesner says: "Vidit sententiam Censor, neque tamen non accusat magnam Scriptoris inadvertentiam, quem docet aliter scribere debuisse. Sed, ut sunt diversa hominum judicia et veluti gustus, puto, si inter Pontifices assiderem, magis motum me fuisse brevitate illa vehementi, quam additis exceptionibus, veris illis quidem, sed non necessariis et languorem orationi conciliantibus."—"Quid vir doctus Göttingensis sensurus fuisset, si Romae inter Pontifices *assedisset,* dubitem an ipse divinando assequi potuerit: at certum est (*neque* de talibus rebus *diversa hominum judicia sunt*) ei Pontifici non excidere potuisse barbarum vocabulum *inadvertentiae* quo ne Anglice quidem scribens Marklandus usus erat" (Wolf).

expetendam] Some MSS. have 'extendendam' or 'extendam.' I do not know what authority there is for 'expetendam,' but it seems to be the word that is wanted, and probably it is the word that was written.

liberis . . . patrimonium] Manutius quotes from a letter of Cicero to Coelius: "Filio meo, si erit ulla res publica, satis amplum patrimonium relinquam memoriam nominis mei." The comparison is instructive. We see how Cicero writes, and we see how this man writes: "patrimonium paterni nominis ac memoriae nostrae."

per religionis vim] Markland observes that in c. 42 'nomine religionis' is well said; and that 'vim' and 'speciem' are often opposed, as in Livy (28. c. 24). His conclusion is that the writer said one thing, and meant another. Here we have the answer to Markland. "Quod vim relig. male hic positam ait pro *specie et obtentu* religionis, in eo vim et δεινότητα orationis non videtur mihi assecutus. Ut in prima ad Lentulum epistola *calumniae religionis* posset aliquis forte substituere speciem et obtentum religionis; sed non illud diceret, quod significat simul Cicero, illam speciem niti perversa interpretatione et applicatione carminis Sibyllini: ita hic possis pro *vi religionis* ponere *speciem* s. *simulationem.* At non hoc tantum vult auctor, sed *vim* hic grassatam esse, quam religionis armaret simulatio" (Gesner). "Polypus Hagnae" (Wolf).

vos, pontifices . . . sententiis restituistis,] Manutius observes that 'sententiis' means 'in Senatu dictis.' Accordingly all the Pontifices, for 'vos Pontifices' means 'all Pontifices' were Senators; which we know to be false (De Domo, c. 1, note). It is

fices, ut me, quem auctoritate, studio, sententiis restituistis, nunc, quoniam senatus ita vult, manibus quoque vestris in sedibus meis collocetis.

not easy to see what 'manibus' means, but Manutius says on 'manibus,' "quod antea sententiis fecistis;" and that is the author's meaning. He will have antithesis, and he cares not for truth. Having said 'sententiis,' which is false, he adds 'manibus' to balance it; which is false too. For I assume that the Pontifices would not place him with their hands either in his house, which no longer existed, or on the ground. It is usual for a man to take possession himself; nor does he want any help for that, unless he meets with resistance (De Harusp. c. 8).

He has said this before about the 'sententiis' (c. 37) with no 'manibus' and some variation. In c. 37 it is 'in meis aedibus.' Here it is 'in meis sedibus.' These two forms are continually interchanged or confounded in the MSS.

INTRODUCTION

TO THE

ORATIO DE HARUSPICUM RESPONSIS.

THE following is from Wolf:

A certain noise had been heard in the parts near Rome, which were called the Ager Latiniensis or Latinensis, the Senate consulted the Haruspices, who answered somewhat as follows:

"Postulationes (postiliones) esse Jovi, Saturno, Neptuno, Telluri, diis caelestibus; *expianda autem delicta esse hujusmodi:*

"I. Ludos minus diligenter factos pollutosque

"II. Loca sacra et religiosa profana haberi,

"III. Oratores contra jus fasque interfectos

"IV. Fidem et jusjurandum neglectum,

"V. Sacrificia vetusta occultaque minus diligenter facta pollutaque. *Monere igitur deos:* Ne per optimatium discordiam dissensionemque Patribus principibusque caedes periculaque creentur, auxilioque deminuti deficiantur; qua re ad unum imperium provinciae redeant, exercitusque pulsus deminutioque accedat: ne occultis consiliis respublica laedatur: ne deterioribus repulsisque honos augeatur: ne reipublicae status commutetur" (see c. 19, and the varieties there).

P. Clodius Pulcher, aedilis in B.C. 56, took occasion, when these Responsa were delivered by the Haruspices, to apply to Cicero's house what they had said about sacred places being polluted, this house having been consecrated by Clodius and afterwards restored to Cicero. The orator replied either at that time or at some time to this attack, and he again defended the case of his house, in such way that while he repelled the charges of Clodius, he made the answers of the Haruspices apply to him. As to the Ludi which had been polluted, he said, these could only be the Megalenses, which had lately been celebrated to the great danger of the citizens, owing to a number of slaves having been allowed to enter the Cavea, though free men only were accustomed to have admission to the exhibition. With respect to the Loci Sacri, he

answered that they had nothing to do with his house, which was released from all religious character, but that they related to Seius' house which Clodius was in possession of after having murdered the owner; for there were in that house a 'sacellum' and altars, which were now treated as common things; and that Clodius' friends too were in the same case, L. Piso who had got possession of the 'sacellum Dianae,' and Sex. Serranus, who had got possession of several 'sacella.'

By the third answer about the Oratores he says, we must understand that the ambassadors Theodosius and Plator were pointed at, of whom Theodosius had been killed by Clodius, and Plator by the treachery of Piso. In the fourth place he observes that the Fides jurisjurandi was meant, which had been broken by the Judices, who acquitted Clodius when he was manifestly guilty of 'incestus.' And fifthly the wickedness of Clodius was readily recognized in the fact that he had by an abominable crime polluted the Sacrificia of the Bona Dea, the most ancient and mysterious of all the sacrifices.

In like manner the orator explains the warnings from the gods to apply chiefly to Clodius and those like him; and he says that any misfortunes which threaten the city are owing to Clodius' wickedness and rage. In conclusion he apologizes for such a serious and solemn address, and he exhorts the Senate to the careful performance of religious duties.

The strange things which are the chief matter of this speech seem to have happened the year before in the consulship of Cn. Cornelius Lentulus Marcellinus and L. Marcius Philippus (cc. 6, 7). Dion speaking of the events under this year says (39. c. 20): "In the meantime certain wondrous things happened; for on the Alban mountain a small shrine of Juno, which was standing on a table towards the east, turned to the north; and a torch issuing from the south shot to the north; and a wolf came into the city, and there was an earthquake; and some citizens were killed by lightning, and a noise under ground was heard in the Ager Latinus. The Haruspices wishing to expiate all this said that some deity was angry with them because certain consecrated places were built upon. Clodius on this attacked Cicero violently in a speech, on the ground that he had built upon the area of his house which was dedicated to Libertas; and he once came to the spot with the intention of again destroying it from the foundation, but he did not do it, for Milo prevented him."

Dion says nothing about Cicero having made a speech on this occasion; and it has also been observed that our orator only mentions one of the wonderful things which Dion has recorded, and that is the terrible noise which was heard in the Ager Latiniensis (c. 10).

Garatoni endeavoured to fix the place which this oration must occupy among the several which Cicero delivered in this year (B.C. 56), and he supposes that it was delivered before the orations Pro Sestio, In Vatinium, Pro Caelio, and after the orations De Provinciis Consularibus and Pro Balbo.

Wolf concludes thus:

"Pauci, opinor, jam erunt lectores quibus non ubique hic Cicero aniliter garrire et vel ipsa illa Romanorum qui dicuntur vatum Latinitas inepta, puerilis et parum Latina esse videatur."

This speech is edited by Baiter in the second edition of Orelli's Cicero. The following are the MSS. to which he refers:—

P = Cod. Parisinus num. 7794 ab Halmio collatus.

G = Cod. Gemblacensis, nunc Bruxellensis, num. 5345 a me collatus.

E = Cod. Erfurtensis, nunc Berolinensis.

M = Cod. Mediceus Plut. xlviii. cod. 25.

C = Codices nostri omnes.

Klotz in his notes to this speech has, I think, attempted to answer more of Wolf's objections than in his notes to the three other spurious speeches. If I am not mistaken, he thinks this speech at least as good as the others, or better. I have given all his answers which seemed to me to be of any value, either as a defence of the orator or as evidence of the orator's merit.

My first opinion of these speeches is confirmed by a more intimate acquaintance with them. In their present form they are not the work of Cicero; and they are the work of a man without understanding. The language is certainly sometimes incorrect; the sense and the style generally most absurd. But as to particular expressions, it is possible that some which have been supposed to be false Latin may still be Latin; and I am the more careful to make this admission, because I do not assume that I possess such a knowledge of the language as to pass an infallible judgment in this matter. There are indeed very few men at the present day who have this knowledge. With this reservation, I pronounce this to be a most absurd stupid piece of talk, the worst of all these four spurious speeches which pass under Cicero's name.

M. TULLII CICERONIS

DE HARUSPICUM RESPONSIS

IN SENATU ORATIO.

I. Hesterno die, patres conscripti, quum me et vestra dignitas et frequentia equitum Romanorum, quibus senatus dabatur, magno opere commosset, putavi mihi reprimendam esse P. Clodii impudicam impudentiam, quum is publicanorum caussam stultissimis interrogationibus impediret, P. Tullioni Syro navaret operam, atque ei se cui totus venierat etiam vobis inspectantibus venditaret. Itaque hominem furentem exsultantemque continui simulac periculum judicii intendi: duobus inceptis verbis omnem impetum gladiatoris ferociamque compressi. Attamen ignarus ille qui con-

1. *Romanorum,*] Baiter adds 'praesentium.'—'impudicam impudentiam:' Markland thinks that Cicero would not have joined these words. I do not know if ever he did.

P. Tullioni Syro] Perhaps some man connected with the Publicani of Syria, and himself a Syrian. Wolf refers to Cicero Ad Q. Fr. ii. 13: "eodem igitur die Tyriis (Syriis) est senatus datus frequens: frequentes contra Syriaci publicani." But the date of this letter is fixed at A.U.C. 700 in some editions.—'vobis inspectantibus:' a favourite expression with the Declamator.

duobus inceptis verbis] Markland finds fault with this. Gesner defends it, and asks, "Quidni sic dicere potuit Tullius eadem sententia qua deinde (c. 4) 'tantum attigi legum initium?'" Wolf has a good note here. He says that what is properly said is easily distinguished from that which is said without due care; some expressions occur only once; others are altogether against the analogy of the language. He who considers such things unworthy of a good author, judges right; and he judges wrong who thinks that whatever is found in an old Latin writer, is for that reason consistent with the best Latinity. If any one denies that a writer has elsewhere used an expression which we find in him, he who would answer this must take the trouble to find a contrary instance. And he continues: "Atque hoc quidem saepe non admodum difficile est, et merus labor digitorum: at subtilior res est ipsam linguae analogiam exquirere, et quid ea ferat, quid respuat, judicare. Ita aio recte scribi, *attingere initium legis*, etsi numquam me id legere memini: contra Latine dici *incipere verba* ausim negare, nullo libro inspecto."

Attamen] "Vix exputo quid sibi velit hoc *attamen*" (Wolf). It means nothing. Nor the words 'ignarus ille qui consules essent.' It is true they mean that Clodius 'did not know what kind of consuls Lentulus and Metellus' were, and how unlike they were to his dear Gabinius and Piso, the consuls of the year of his tribuneship. But though this by itself expresses a fact, it has no connexion at all with the sentence. The only possible connexion is this, that knowing the character of the consuls he hurried out of the 'curia' with threats, but threats which were no longer formidable.

sules essent, exsanguis atque aestuans se ex curia repente proripuit cum quibusdam fractis jam atque inanibus minis, et cum illius Pisoniani temporis Gabinianique terroribus. Quem quum egredientem insequi coepissem, cepi equidem fructum maximum et ex consurrectione omnium vestrum et ex comitatu publicanorum. Sed vecors repente sine suo vultu, sine colore, sine voce constitit; deinde respexit, et simulac Cn. Lentulum consulem aspexit, concidit in curiae paene limine, recordatione, credo, Gabinii sui desiderioque Pisonis. Cujus ego de effrenato et praecipiti furore quid dicam; aut potest gravioribus a me verbis vulnerari quam est statim in facto ipso a gravissimo viro P. Servilio confectus ac trucidatus? Cujus si jam vim et gravitatem illam singularem ac paene divinam assequi possem, tamen non dubito quin ea tela, quae conjecerit inimicus, quam ea quae collega patris emisit leviora atque hebetiora esse videantur.

II. Sed tamen mei facti rationem exponere illis volo, qui hesterno die dolore me elatum et iracundia longius prope progressum arbitrabantur quam sapientis hominis cogitata ratio postulasset. Nihil feci iratus, nihil impotenti animo, nihil non diu consideratum ac multo ante meditatum. Ego enim me, patres conscripti, inimicum semper esse professus sum duobus, qui me, qui rem publicam, quum defendere deberent, servare possent, quumque ad consulare officium ipsis insignibus illius imperii, ad meam salutem non solum auctoritate, sed etiam precibus vestris vocarentur, primo reliquerunt, deinde prodiderunt, postremo oppugnarunt, praemiisque nefariae pactionis funditus una cum re publica oppressum exstinctumque voluerunt; qui quae suo ductu et imperio cruento illo atque funesto supplicia neque a sociorum moenibus prohibere, neque hostium

Manutius infers from the words 'se ex curia repente proripuit' that the 'valvae' were open. Perhaps they were; and perhaps they were shut.—'simul atque,' Baiter.

respexit,] He looked back and saw Lentulus, and then 'concidit in curiae paene limine:' of course not on the threshold, that would be too precise; but 'in curiae paene limine' (see the note on the Quum Senatui, c. 15). He 'concidit,' not because he looked back and saw Lentulus, though he 'concidit' when he did look back; but he 'concidit . . . recordatione Gabinii sui.' The absurdity of this first chapter is unequalled by any thing that ever I read: "Admirabilis pictura, in qua nihil quaeras amplius, nisi quid misero homine postea factum sit, ad Laremne suum an in Senatum reverterit" (Wolf).

aut potest] Some editions have 'Haud potest' without the interrogation at the end of the sentence. Baiter has 'dicam? Potest' without 'haud.'

in facto ipso] 'Quum egrediens minaretur' (Manutius). It is not easy to find that out. P. Servilius Isauricus was the colleague of Publius' father in the consulship, as it is said here, in B.C. 79. (De Domo, c. 31, note.)

2. *duobus,*] The 'two.' He who has read the three orations will be very familiar with these men, and with the 'praemiis nefariae pactionis.'—'paene hujus imperii pestibus:' 'paene' again. See c. 1, and Quum Senatui, c. 15, note; and, as they say, see these four orations 'passim.'

urbibus inferre potuerunt, excisionem, inflammationem, eversionem, depopulationem, vastitatem, ea sua cum praeda meis omnibus tectis atque agris intulerunt. Cum his furiis et facibus, cum his, inquam, exitiosis prodigiis ac paene hujus imperii pestibus bellum mihi inexpiabile dico esse susceptum; neque id tamen ipsum tantum, quantum meus ac meorum, sed tantum quantum vester atque omnium bonorum dolor postulavit. III. In Clodium vero non est hodie meum majus odium quam illo die fuit, quum illum ambustum religiosissimis ignibus cognovi muliebri ornatu ex incesto stupro atque ex domo pontificis maximi emissum. Tum, inquam, tum vidi ac multo ante prospexi quanta tempestas excitaretur, quanta impenderet procella rei publicae. Videbam illud scelus tam importunum, audaciam tam immanem adolescentis furentis, nobilis, vulnerati non posse arceri otii finibus; erupturum illud malum aliquando, si impunitum fuisset, ad perniciem civitatis. Non multum mihi sane post ad odium accessit. Nihil enim contra me fecit odio mei, sed odio severitatis, odio dignitatis, odio rei publicae: non me magis violavit quam senatum, quam equites Romanos, quam omnes bonos, quam Italiam cunctam: non denique in me sceleratior fuit quam in ipsos deos immortales. Etenim illos eo scelere violavit quo nemo antea: in me fuit eodem animo quo etiam ejus familiaris Catilina si vicisset fuisset. Itaque eum numquam a me

3. *ambustum . . . ignibus*] The interpreters do not exactly agree about the meaning of 'burnt by most religious fires;' but as the allusion is to the sacrifice of the Bona Dea and to Clodius' unholy intrusion, every man may put his own meaning on this expression. Again we can give a meaning to 'arceri otii finibus' by taking 'arceri' to mean 'coerceri' or 'contineri.'

odio dignitatis,] om. P. Baiter puts it in [ ]. "Quicquid fecit Clodius, non fecit odio *Ciceronis*, sed odio severitatis et dignitatis Ciceronianae. Ridete, Patres Conscripti, quicquid est vobis cachinnorum" (Wolf).

si vicisset fuisset.] It is impossible to follow this man's thoughts, for they are all in confusion. He says at the beginning of the chapter that he does not hate Clodius now more than he hated him on the day when he profaned the mysteries of the Bona Dea. This is a very liberal concession after what Cicero had suffered from Clodius.—He saw at the time when Clodius profaned the mysteries, that this villain would ruin the state, if he were not punished. There was in truth after this no great increase in his hatred to Clodius (non multum). But there was some; and so he contradicts what he has just said. Then he says, Clodius did nothing against Cicero through hatred of him, but because he hated his 'dignitas' and the 'res publica.' Finally, Clodius did not act more wickedly against Cicero than against the immortal gods. But he treated the immortal gods, as never man had treated them before: his crime against the immortal gods was without a precedent. The suppressed affirmation must be that he was very wicked against Cicero; and 'his disposition towards him was that which Catilina's would have been, if Catilina had been victorious.' We may guess what that would have been; something more than hatred; and yet Clodius did nothing against Cicero through hatred. It would have been more to the purpose if he had said that Clodius' disposition was that which Catilina's had been; but perhaps this acute Declamator saw that this would have spoiled 'Nihil contra me fecit odio mei.' Wolf compares a passage in the Pro Sestio, c. 12, which applies to a different person, but may have furnished the form of expression:

esse accusandum putavi, non plus quam stipitem illum, qui quorum hominum esset nesciremus, nisi se Ligurem ipse esse diceret. Quid enim hunc persequar, pecudem ac belluam, pabulo inimicorum meorum et glande corruptum? qui si sensit quo sese scelere devinxerit, non dubito quin sit miserrimus; sin autem id non videt, periculum est ne se stuporis excusatione defendat. Accedit etiam quod exspectatione omnium fortissimo et clarissimo viro T. Annio devota et constituta ista hostia esse videtur; cui me praeripere desponsam jam et destinatam laudem, quum ipse ejus opera et dignitatem et salutem recuperarim, valde est iniquum. IV. Etenim, ut P. ille Scipio natus mihi videtur ad interitum exitiumque Karthaginis, qui illam a multis imperatoribus obsessam, oppug-

"Exanimatus evolat ex senatu non minus perturbato animo atque vultu—advocat contionem, habet orationem talem consul, qualem numquam Catilina victor habuisset." Wolf has this note on 'si vicisset, fuisset'—"Quasi odio non nimium dignus fuisset Clodius, quia praeter ipsum alius non minus saevus videbatur futurus Ferremus si scripsisset: In me fuit eodem animo, quo et alii homines improbi in me antea fuerant." Klotz on this passage merely remarks that Cicero generally represents his opponents at this period as followers of Catilina, quotes the passage from the Pro Sestio (c. 12), and concludes in his usual self-satisfied way: "But a person will not however from this choose to draw the false conclusion, to which Wolf here also has allowed himself to be led." This is as clever as the Declamator.

stipitem illum . . . Ligurem] Aelius Ligur, the colleague of P. Clodius in the tribuneship, who opposed the motion of L. Ninnius for Cicero's return (Manutius). The words 'qui quorum,' &c., are an allusion to the character of the Ligurian nation, for it happened that Ligur had a cognomen which was also the name of a Ligurian (Vol. II. Pro Cluentio, c. 26; Pro Sestio, 31).

hunc persequar,] He means Clodius, whom he did not prosecute because he was 'pecus et bellua,' and 'corrupted (whatever it means) by the fodder and mast of Cicero's enemies.' The reason is amusing. "Non accusavit quia bellua est. Longas tamen orationes in hanc belluam componere non dedignatur" (Wolf).

Accedit etiam . . . valde est iniquum.] Markland observes that Milo killed Clodius more than three years after the date of this speech, and yet the orator foresees the event; for Markland affirms that the words 'hostia, devota, constituta' prove that he is speaking of killing Clodius. Gesner shows that Markland is mistaken, that the writer is speaking of a prosecution of Clodius by Milo. He refers to the Pro Flacco, c. 38, where there are forms of expression like these, though, as Wolf says, there is a better reason in the Pro Flacco for comparing to a slaughtered victim a man who is condemned.

Cicero did speak of the probability of Clodius being killed by Milo, but it was in a letter to Atticus (iv. 3): "reum Publium, nisi ante occisus erit, fore a Milone puto: si se inter viam obtulerit, occisum iri ab ipso Milone video. Non dubitat facere, prae se fert, casum illum nostrum non extimescit." Wolf observes, "Etsi insania absolvas Rhetorem, facile tamen in sermonis ineptiis convincetur: vel dicendum est, quod aliquis veterum Intpp. dixit non male: Minatur aperte accusationem, tacite caedem." Klotz admits that there is a hint about the chance of Clodius meeting with a violent death; but he contends that this is no evidence of the forger. And I think so too. The evidence of the forger is not in that suggestion; but it is in the whole chapter.

The comparison which follows in the next chapter about Scipio and Carthage is very extravagant; and though we see that the writer at the end of this chapter is speaking of Clodius being brought to trial, he will not be content with that, but must speak as if Clodius were to be killed.

4. *multis imperatoribus*] He seems to mean many Roman 'imperatores' who had besieged Carthage, but we do not know their names. 'Paene captam' is in the author's style. (Quum Senatui, c. 15.)—'adventu,' C., Baiter. Many editions have 'eventu.'

natam, labefactatam, paene captam aliquando quasi fatali adventu solus evertit, sic T. Annius ad illam pestem comprimendam, exstinguendam, funditus delendam natus esse videtur, et quasi divino munere donatus rei publicae. Solus ille cognovit quemadmodum armatum civem, qui lapidibus, qui ferro alios fugaret, alios domi contineret, qui urbem totam, qui curiam, qui forum, qui templa omnia caede incendiisque terreret, non modo vinci, verum etiam vinciri oporteret. Huic ego et tali et ita de me ac de patria merito viro numquam mea voluntate praeripiam eum praesertim reum, cujus ille inimicitias non solum suscepit propter salutem meam, verum etiam appetivit. Sed si etiam nunc illaqueatus jam omnium legum periculis, irretitus odio bonorum omnium, exspectatione supplicii jam non diuturna implicatus, feretur tamen haesitans et in me impetum impeditus facere conabitur, resistam, et aut concedente aut etiam adjuvante Milone ejus conatum refutabo, velut hesterno die, quum mihi stanti tacens minaretur, voce tantum attigi legum initium et judicii. Consedit ille. Conticui. Diem dixisset, ut fecerat: fecissem ut ei statim tertius a praetore dies diceretur. Atque hoc sic moderetur et cogitet, si contentus sit iis sceleribus quae commisit, esse jam consecratum Miloni: si quod in me telum intenderit, statim me esse arrepturum arma judiciorum atque legum.

Atque paullo ante, patres conscripti, contionem habuit, quae est ad me tota delata; cujus contionis primum universum argumentum sententiamque audite. Quum riseritis impudentiam hominis, tum

alios domi contineret,] The great Cn. Pompeius, always shut up. See these orations 'passim.' The writer often uses that figure of speech, whatever it is named, by which the plural is put for the singular.

vinci,] P. G. E., Baiter; '*vinciri*' Fr. Fabricius, Baiter; '*vincere* C.' The common reading is 'non modo vincere, verum etiam vincire oporteret.'

suscepit . . . appetivit.] This is in the author's style. In the next sentence we have a number of words, and little sense. The reading 'stanti jacens' in Wolf and other editions is now 'stanti tacens,' the reading of C. (Baiter). This requires 'Consedit ille. Conticui;' instead of 'Consedit ille. Conticuit.' 'Conticui C.' (Baiter).

Again, for 'Diem dixisset, ut fecerat,' Baiter, following Ernesti, has 'Diem dixisset, ut jecerat.' It is not worth while to waste words about the probable meaning. Klotz, who has the reading 'fecerat,' says that "this passage stands quite right both as to words and meaning." Clodius the aedile threatens to give Cicero notice of a prosecution (diem dicere), "which could only be said of a magistratus;" and Cicero says, I would have contrived to make the praetor, "who as a higher magistratus could summon the aedile," summon him on the spot (statim) for the third day, the shortest term of notice allowed by the law.—If Clodius persists in his prosecution, Cicero will get a praetor to give Clodius notice. Very puerile stuff this. I supposed that a magistratus could not be brought to trial during his term of office; but I may be mistaken about this. However the Declamator is of this opinion (c. 24, note).—'esse se jam,' 'nos,' that is, Baiter.

Here ends the introduction to this speech. There is nothing like it.

a me de tota contione audietis. V. De religionibus, sacris et caerimoniis est contionatus, patres conscripti, Clodius: P. inquam Clodius sacra et religiones negligi, violari, pollui questus est. Non mirum, si hoc vobis ridiculum videtur. Etiam sua contio risit hominem, quomodo ipse gloriari solet, ducentis confixum senatusconsultis, quae sunt omnia contra illum pro religionibus facta, hominemque eum qui pulvinaribus Bonae deae stuprum intulerit, eaque sacra quae viri oculis ne imprudentis quidem aspici fas est, non solum aspectu virili, sed flagitio stuproque violarit, in contione de religionibus neglectis conqueri. Itaque nunc proxima contio ejus exspectatur de pudicitia. Quid enim interest utrum ab altaribus religiosissimis fugatus de sacris et religionibus conqueratur, an ex sororum cubiculo egressus pudorem pudicitiamque defendat? Responsum haruspicum hoc recens de fremitu in contione recitavit, in quo cum aliis multis scriptum etiam illud est, id quod audistis, Loca sacra et religiosa profana haberi. In ea caussa esse dixit domum meam a religiosissimo sacerdote P. Clodio consecratam. Gaudeo mihi de toto hoc ostento, quod haud scio an gravissimum multis his annis huic ordini nuntiatum sit, datam non modo justam, sed etiam necessariam caussam esse dicendi. Reperietis enim ex hoc toto prodigio atque responso, nos de istius scelere ac furore ac de impendentibus periculis maximis prope jam voce Jovis Optimi Maximi praemoneri. Sed primum expiabo religionem aedium mearum, si id facere vere ac sine cujusquam dubitatione potero: sin

5. *quomodo ipse gloriari*] These words refer to the 'ducenta senatusconsulta.' The 'ducenta' mean many, which the Romans often express by 'sexcenta.' This is said 'oratorie,' for all the S. C. which were directed against Clodius did not relate to religion.

viri oculis . . . aspectu virili,] Markland wants to know why the writer adds 'virili' after having said 'viri oculis;' and whether there was any danger of his polluting the ceremonies 'adspectu muliebri aut equino.' Gesner answers him: "Adeo non sensit Vir doctus, quam augeatur crimen hoc epitheto? Potuitne vir adspicere sacra Bonae Deae adspectu *fortuito* vel *frigido* vel *religioso?* in quo minor culpa, culpa tamen. At Clodius vir etiam *virili adspectu* ea contaminavit, reduplicativa significatione, ut loquuntur scholastici, quatenus vir erat, quatenus virum volebat in Pompeia exsercere" (Gesner). "Acutius interdum movetur Vir doctus" (Wolf). Here again Gesner is right, and Markland is wrong: wrong in one way and right in another, for he saw that it was poor stuff.

de fremitu] The noise of arms, it is supposed, the noise of battle, as Ovid says (xv. 783), quoted by Wolf:

"—— Arma inter nigras crepitantia nubes,
Terribilesque tubae, auditaque cornua caelo."

Dion says that the noise was under ground; the rumble of an earthquake perhaps (c. 28).

necessariam caussam . . . dicendi.] "Optima locutio est: sed vehementer dubito, an Ciceroni nostro tam necesse fuerit verba facere de hoc ostento. Nam, si necesse fuisset, si v. g. in hoc ipso Senatu actum esset de prodigiis illis et Haruspicum responsis, non tam misere erravisset Orator in toto exordio, antequam ad novissimam Clodii concionem et hinc ad ista responsa perveniret" (Wolf).—'praemoneri,' G.; 'promoneri,' P. E., Baiter.

scrupulus tenuissimus residere aliquis videbitur, non modo patienti, sed etiam libenti animo portentis deorum immortalium religionique parebo.

VI. Sed quae tandem est in hac urbe tanta domus ab ista religionis suspicione tam vacua atque pura? Quamquam vestrae domus, patres conscripti, ceterorumque civium multo maxima ex parte sunt liberae religione, tamen una mea domus judiciis omnibus liberata in hac urbe sola est. Te enim appello, Lentule, et te, Philippe—ex hoc haruspicum responso decrevit senatus, ut de locis sacris religiosis ad hunc ordinem referretis—potestisne referre de mea domo? quae, ut dixi, sola in hac urbe omni religione omnibus judiciis liberata est; quam primum inimicus ipse in illa tempestate ac nocte rei publicae, quum cetera scelera stilo illo impuro, Sex. Clodii ore tincto, conscripsisset, ne una quidem attigit littera religionis; deinde eandem domum populus Romanus, cujus est summa potestas omnium rerum, comitiis centuriatis omnium aetatum ordinumque suffragiis eodem jure esse jussit quo fuisset; postea vos, patres conscripti, non quo dubia res esset, sed ut huic furiae, si diutius in hac urbe quam delere cuperet maneret, vox interdiceretur, decrevistis ut de mearum aedium religione ad pontificum collegium referretur. Quae tanta religio est, qua non in nostris dubitationibus atque in maximis superstitionibus unius P. Servilii ac M. Luculli responso ac verbo liberemur? De sacris publicis, de ludis maximis, de deorum penatium Vestaeque matris caerimoniis, de illo ipso sacrificio, quod fit pro salute populi Romani, quod post Romam conditam hujus unius casti tutoris religionum scelere violatum est, quod tres pontifices statuissent, id semper populo Romano, semper senatui, semper ipsis diis immor-

6. *vacua atque pura?*] Garatoni refers to a passage in Ulpian (Dig. 11. 7. 2. § 2): "Purus locus dicitur, qui neque sacer neque sanctus est neque religiosus, sed ab omnibus hujusmodi nominibus vacare videtur."

littera religionis;] Markland says that it should be 'de religione,' as in the Pro Cluentio, c. 65: "In quibus tabellis de furto (non *furti*) littera nulla invenitur." But the Declamator writes so: "Unum ostende verbum consecrationis" (De Domo, c. 50). Gesner defends the text, and compares the expression 'calumnia religionis,' which Cicero uses in the letter to Lentulus (Ad Div. i. 1). But the difference between 'littera religionis,' and 'calumnia religionis' is very plain, as Wolf observes; and the man is not writing Latin.

comitiis centuriatis] We know nothing of this vote of the 'centuriae;' but the words are nearly the same as he uses in the De Domo, c. 28 (Wolf).

interdiceretur,] Lambinus corrected this to 'intercluderetur;' Gulielmius to 'interciperetur.' The critics agree that it must be endured.

quod fit pro salute] The celebration of the rites of the Bona Dea, which Clodius polluted, the 'castus tutor,' by getting into Caesar's house when the women were celebrating this holy rite. Cicero's expression is this: "Credo enim te audisse, quum apud Caesarem pro populo fieret, venisse eo muliebri vestitu virum" (Ad Att. i. 13).

talibus satis sanctum, satis augustum, satis religiosum esse visum est. At vero meam domum P. Lentulus, consul et pontifex, P. Servilius, M. Lucullus, Q. Metellus, M'. Glabrio, M. Messalla, L. Lentulus, flamen Martialis, P. Galba, Q. Metellus Scipio, C. Fannius, M. Lepidus, L. Claudius, rex sacrorum, M. Scaurus, M. Crassus, C. Curio, Sex. Caesar, flamen Quirinalis, Q. Cornelius, P. Albinovanus, Q. Terentius, pontifices minores, caussa cognita, duobus locis dicta, maxima frequentia amplissimorum ac sapientissimorum civium astante, omni religione una mente omnes liberaverunt. VII. Nego umquam post sacra constituta, quorum eadem est antiquitas quae ipsius urbis, ulla de re, ne de capite quidem virginum Vestalium, tam frequens collegium judicasse: quamquam ad facinoris disquisitionem interest adesse quam plurimos; ita est enim interpretatio illa pontificum, ut iidem potestatem habeant judicum. Religionis explanatio vel ab uno pontifice perito

P. Servilius,] De Domo, c. 16.

L. Claudius. rex sacrorum,] Markland observes that the Claudii Pulcri or Nerones had dropped the praenomen Lucius (Sueton. Tib. c. 1), and that this L. Claudius must therefore be a Marcellus, and a plebeian. The other family was patrician. But the 'rex sacrorum' must be a patrician. "Sed quid? si non ita sancte illa observata lex fuit? Quid? si illa L ex C corrupta est?" (Gesner). "Quid denique? si haec oratio ab homine indocto composita est?" (Wolf.)

pontifices minores,] If we omit the rex sacrorum, the three Pontifices minores, and the two Flamines, there remain thirteen in the Collegium, the number of which was increased to fifteen by Sulla. Caesar was in Gallia (De Domo, c. 1, note); and Pinarius Natta (De Domo, c. 45) was nobody knows where. It appears from this passage that the Flamines sat and voted in the Collegium Pontificum. The omission of the Flamen Dialis is a notable fact, for the place was then vacant (Tacit. Ann. iii. 58: "duobus et septuaginta annis post Cornelii Merulae caedem neminem suffectum"). Augustus elected a new Flamen, as Dion mentions (54. c. 36). L. Cornelius Merula, who had been elected consul in B.C. 87 in Cinna's place, was also Flamen Dialis. When Marius returned from exile, Merula committed suicide to escape conviction on the charge of having illegally had the consulship. Whether the omission of the Flamen Dialis is to be ascribed to chance or to the writer's learning, "deus aliquis scierit" (Wolf). Klotz takes this to be evidence in favour of the writer's knowledge; and it is. But that does not prove that the writer is Cicero, nor is it even any presumption in favour of Cicero being the author of this speech. The fact is true; and that is all. Cicero's historical statements are not always true.

duobus locis dicta,] We know nothing of these two hearings of the case, nor is there any indication in the De Domo of its being twice heard. Garatoni supposes that the speech of Calidius about Cicero's house was delivered at the first hearing. Manutius and others explain it thus. It was first discussed in the Senate when Cicero's return was debated, then in the Forum before the Pontifices when Cicero pleaded his case. He refers to the passage in the De Domo: "ut hos tales viros aliud de summa hoc tempore religione sensuros ac me absente senserint arbitrere."

7. *tam frequens*] It seems that they were all there except two.—'iidem potestatem:' Baiter has 'eidem potestatem.'

ita est enim interpretatio] Wolf says: "Minime Ciceronianum est hoc *ita*, eo modo positum, ut Pro Domo (c. 27)." Klotz says the Latinity of the expression scarcely requires proof, and 'ita' is often used in similar connexions.

explanatio] "Jam vide, quam parum h. l. sibi constet Declamator, in rebus non minus ludens quam in verbis. Antea tollendae religioni duorum Pontificum responsum ac verbum sufficiebat; dein tribus erat opus; jam vel per unum, scilicet peritum, res fieri poterat" (Wolf).

recte fieri potest, quod idem in judicio capitis durum atque iniquum est. Tamen sic reperietis frequentiores pontifices de mea domo quam umquam de caerimoniis virginum judicasse. Postero die frequentissimus senatus, te consule designato, Lentule, sententiae principe, P. Lentulo et Q. Metello consulibus referentibus statuit, quum omnes pontifices qui erant hujus ordinis adessent, quumque alii, qui honoribus populi Romani antecedebant, multa de collegii judicio verba fecissent, omnesque iidem scribendo adessent, domum meam judicio pontificum religione liberatam videri. De hoc igitur loco sacro potissimum videntur haruspices dicere, qui locus solus ex privatis locis omnibus hoc praecipue juris habet, ut ab ipsis qui sacris praesunt sacer non esse judicatus sit? Verum referte: quod ex senatusconsulto facere debetis. Aut vobis cognitio dabitur, qui primi de hac domo sententiam dixistis, et eam religione omni liberastis; aut senatus ipse judicabit, qui, uno illo solo antistite sacrorum dissentiente, frequentissimus antea judicavit; aut, id quod certe fiet, ad pontifices rejicietur, quorum auctoritati, fidei, prudentiae majores nostri sacra religionesque et privatas et publicas commendarunt. Quid ergo ii possunt aliud judicare ac judicaverunt? Multae sunt domus in hac urbe, patres conscripti, atque haud scio an paene cunctae jure optimo, sed tamen jure privato, jure hereditario, jure auctoritatis, jure mancipi, jure nexi. Nego esse ullam domum aliam aeque privato jure atque optima lege, publico vero omni praecipuo et humano et divino jure munitam; quae primum aedificatur ex auctoritate senatus pecunia publica, deinde contra vim nefariam hujus gladiatoris tot senatusconsultis munita atque septa est. VIII. Primum negotium iisdem magis-

Postero die] "Similem diligentiam admirati sumus ad Or. Quum Senatui, c. 10. Hic autem designandus erat dies, a quo ille *posterus* numeraretur." Klotz says that it was the day after the Pontifices gave their judgment, as every man is able to know and must know.—That is the only possible explanation, but the expression is very loose. It is however a small matter.

Wolf finds fault with 'honoribus populi Romani antecedebant.' Klotz replies by quoting Verr. ii. 4. c. 62: "qui auctoritate et aetate . . . antecedebant." I do not think that Wolf meant to deny that the expression in the text is Latin.—'qui erant hujus ordinis:' all the Pontifices then were not Senators (De Domo, c. 1, note).

loco sacro] E. omits 'sacro,' and Wolf thinks it is absurd. Klotz says that it contains a right proper sarcasm.—'referte:' he is addressing the consuls Cn. Lentulus and Philippus.

jure optimo,] A 'domus jure optimo' is a house which owes no 'servitus' (Vol. I. Verr. ii. 3. c. 91, note on 'optimo jure,' and De Lege Agraria, iii. c. 2, note); and this could not be said of all the houses in Rome or 'paene cunctae.' All that follows about his 'jure privato,' 'jure hereditario' is not worth the trouble of a note. He simply means to say that all other houses or nearly all are only protected by 'jus privatum,' as he calls it; but his house is also protected by 'jus publicum,' as he explains it here and in the next chapter.—'aliam privato eodem quo quae optima lege,' Baiter.

8. *iisdem magistratibus*] The consuls. Instead of simply saying that the consuls were commissioned to look after the building of his house, he says, the same magis-

tratibus est datum anno superiore, ut curarent ut sine vi aedificare mihi liceret, quibus in maximis periculis universa res publica commendari solet: deinde, quum ille saxis et ignibus et ferro vastitatem meis sedibus intulisset, decrevit senatus, eos qui id fecissent lege de vi, quae est in eos qui universam rem publicam oppugnassent, teneri. Vobis vero referentibus, o post hominum memoriam fortissimi atque optimi consules, decrevit idem senatus frequentissimus, qui meam domum violasset contra rem publicam esse facturum. Nego ullo de opere publico, de monumento, de templo, tot senatus exstare consulta, quot de mea domo, quam senatus unam post hanc urbem constitutam ex aerario aedificandam, a pontificibus liberandam, a magistratibus defendendam, a judicibus puniendam putaret. P. Valerio pro maximis in rem publicam beneficiis data domus est in Velia publice; at mihi in Palatio restituta: illi locus; at mihi etiam parietes atque tectum: illi quam ipse privato jure tueretur; mihi quam publice magistratus omnes defenderent. Quae quidem ego si aut per me aut ab aliis haberem, non praedicarem apud vos, ne nimis gloriari viderer; sed quum sint mihi data a vobis, quum ea attententur ejus lingua cujus antea manu eversa vos mihi et liberis meis manibus vestris reddidistis, non ego de meis, sed de vestris factis loquor; nec vereor ne haec mea vestrorum beneficiorum praedicatio non grata potius quam arrogans videatur. Quamquam, si me tantis laboribus pro communi salute perfunctum efferret aliquando ad gloriam in

tratus 'quibus in maximis periculis . . . commendari solet,' a most absurd and ridiculous antithesis. See the letter to Atticus (iv. 2); and iv. 3 about the attack of Clodius on Cicero's area.

puniendam] We may guess what 'a judicibus puniendam' means, but nobody will suppose that the Romans said 'domus a judicibus punienda est;' nor 'munienda' either, as Baiter has it, adopting a correction. Ernesti thinks that 'puniendam' is to be taken in the sense of 'ulciscendam.' "Punire domum est poenam repetere ob violatam domum" (Ernesti, Index Latin). He refers to the De Oratore i. 51: "cupiditas puniendi doloris;" Pro Milone i. 13: "tu me tibi iratum, Sexte, putas, cujus inimicissimum multo crudelius etiam poenitus es quam erat humanitatis meae postulare?" and Phil. viii. 2. These passages show the meaning of 'punire,' but they do not justify the expression in the text.

in Velia publice;] Janus Palmerius. The MSS. have 'in ulla publica' or 'in villa publica;' and some 'in via publica,' as Wolf says. Livy (ii. 7) says of Valerius: "aedificabat in summa Velia." The expression 'publice data,' given by the state, is a genuine Roman expression. Pomponius (Dig. 1. 2. 2. § 37) says of the house which was given to Nasica: "Sed et C. Scipio Nasica, qui optimus a senatu appellatus est, cui etiam publice domus in sacra via data est, quo facilius consuli posset."

lingua . . . manu . . . manibus] Here we have the Declamator's hand. They were attacked by the 'lingua' of the man, by whose hand they were before overthrown, and again restored 'manibus vestris:' first 'lingua' and 'manus' opposed, then 'cujus manu' and 'manibus vestris.' The word 'manibus' is put in simply to balance the 'manu.' So at the end of the De Domo, c. 58: "auctoritate, studio, sententiis restituistis . . . manibus quoque vestris in sedibus meis collocetis." So we shall learn to write at last by studying this author.

refutandis maledictis hominum improborum animi quidam dolor, quis non ignosceret? Vidi enim hesterno die quendam murmurantem; quem aiebant negare ferre me posse, quia, quum ab hoc eodem impurissimo parricida rogarer, cujus essem civitatis, respondi, me, probantibus et vobis et equitibus Romanis, ejus esse quae carere me non potuisset. Ille, ut opinor, ingemuit. Quid igitur responderem? quaero ex eo ipso, qui ferre me non potest: me civem esse Romanum? litterate respondissem an tacuissem? desertum negotium. Potest quisquam vir in rebus magnis cum invidia versatus satis graviter in inimici contumeliam sine sua laude respondere? At ipse non modo respondet, quidquid potest, quum est lacessitus, sed etiam gaudet se ab amicis quid respondeat admoneri.

IX. Sed, quoniam mea caussa expedita est, videamus nunc quid haruspices dicant. Ego enim fateor me et magnitudine ostenti et gravitate responsi et una atque constanti haruspicum voce vehementer esse commotum. Neque is sum qui, si cui forte videor plus quam ceteri qui aeque atque ego sunt occupati versari in studio litterarum, iis delecter aut utar omnino litteris, quae nostros animos deterrent atque avocant a religione. Ego vero primum habeo auctores ac magistros religionum colendarum majores nostros; quorum mihi tanta fuisse sapientia videtur, ut satis superque prudentes sint qui illorum prudentiam, non dicam assequi, sed

ferre me posse,] Halm writes 'ferri,' and Baiter follows him. The word 'se' seems to be wanted. Manutius mistook the meaning of 'litterate,' which means literally, if it means any thing. But this is not Cicero's use of the word: "L. Furius Philus perbene Latine loqui putabatur litteratiusque quam ceteri" (Brutus, c. 28); and "antiquitatis nostrae et in inventis rebus et in actis scriptorumque veterum litterate peritus" (Brutus, c. 56): "ein Kenner aus den Quellen," as Meyer translates it. 'Desertum negotium' may be explained by 'tacuissem?' "Should I have answered literally or should I have said nothing? I should have been giving up the case, or it would have been a bad case either way."—'Ille, ut opinor, ingemuit.' Not Clodius, says Manutius, but the 'quidam murmurans.' So it must be; and 'ipse' also is the 'quidam murmurans;' and so the silly story ends with this pointless remark, 'gaudet se ab amicis quid respondeat admoneri.' "Here also one will certainly recognize the genuine Cicero at once, if one knows him only tolerably well" (Klotz). Some editions have the passage thus: "Litterate respondissem. Tacuissem? Desertum negotium."—'in inimici,' Baiter, 'inimici,' C.

9. *magnitudine ostenti et gravitate*] This chapter is intended to be very solemn, but it is more likely to raise a smile. So strangely are the comical and the serious blended. In a very awkward sentence (Neque is sum) he tells us that he is no friend to such books as are against religion; by which he means the writings of the Epicurean school which attacked superstition.

"Humana ante oculos foede quum vita jaceret
In terris oppressa gravi sub religione,
Quae caput e caeli regionibus ostendebat
Horribili super adspectu mortalibus instans,
Primum Graius homo mortales tollere contra
Est oculos ausus, primusque obsistere contra." (Lucret. i. 62.)

quanta fuerit perspicere possint: qui statas sollemnesque caerimonias pontificatu, rerum bene gerendarum auctoritates augurio, fatorum veteres praedictiones Apollinis vatum libris, portentorum explanationes Etruscorum disciplina contineri putaverunt: quae quidem tanta est ut nostra memoria primum Italici belli funesta illa principia, post Sullani Cinnanique temporis extremum paene discrimen, tum hanc recentem urbis inflammandae delendique imperii conjurationem non obscure nobis paullo ante praedixerint. Deinde etiam cognovi multa homines doctissimos sapientissimosque

qui statas] There is a passage in Valerius Maximus (i. I) quoted by Markland, which bears some resemblance to this: "Majores nostri statas solemnesque caerimonias Pontificum scientia; bene gerendarum rerum auctoritates augurum observatione; Apollinis praedictiones, vatum libris; portentorum depulsa Etrusca disciplina explicari voluerunt." But it is better said in Valerius, and if one copied the other, it is the Declamator who copied. Markland finds fault with 'Pontificatus' being used to signify 'Pontificum scientia.' Gesner says that 'Pontificatus' means the 'munus pontificis,' but it seems that the author did not take it so. "It must not be assumed that our orator's expressions are not Latin. Gesner has maintained them with perfect right against Markland, and Wolf could only sneer" (Klotz).—'explanationes:' 'expiationes,' Sigonius, Baiter.

Deinde etiam cognovi] 'Deinde, si quid habui otii, etiam cognovi' (Baiter). The MSS. reading is not 'si quid habui otii,' but 'si quid habui tolli,' and 'si quid habuit tolli." M. omits this.

This sentence down to 'retentum' may deceive the reader. The 'purpureus pannus' which begins 'Etenim quis est tam vecors' has a specious look. It is worth while seeing what it means.—"I have also learned that many most learned men have spoken and written about the gods; and though what they have written is written 'divinitus' (a word which this writer hardly understands), it is of such kind that we must conclude that our ancestors taught them, and did not learn from them."—One would suppose that he intends to allude to the writings of the Greeks, for what else is there that he can allude to? And he tells us that all this philosophy came from the Romans; which is exactly contradictory of what Cicero says every where else; and a most ridiculous falsehood. Cicero says (Ad Q. Fr. i. I. c. 9), speaking of the Asiatic Greeks: "Quum vero ei generi hominum praesimus, non modo in quo ipsa sit sed etiam a quo ad alios pervenisse videtur humanitas, certe iis eam potissimum tribuere debemus a quibus accepimus." He continues: "For who is so stupid, either if he has raised his eyes to the heavens, as not to feel that there are gods—or, if he has seen that there are gods, not to see that this great empire is their work?" The two 'auts' are important.—"If a man raises his eyes to heaven, he must be stupid, if he cannot see there the evidence of divine power."—We can let that pass.—"Or, who is so stupid if he believes in the gods as not to see that Rome is their work?"—We may let this pass, and what then? Why, the undisputed fact, the fact which every man except a fool admits, that Rome is the work of the gods, and this proves that the Romans taught the philosophers. I do not admit that the writer had the least idea that he was talking this nonsense; but like many others he writes one thing and supposes that he is writing another.

The next sentence is that for which the whole of this grand preparation was made. Spaniard, Gaul, Carthaginian and Greek, Italians themselves (Itali ipsi) and Latins, all severally excel the Romans in their several arts, but "in piety and religion and in this one knowledge that we have discovered every thing to be directed and governed by the divinity of the immortal gods, we have surpassed all races and nations." This superiority must have been only in degree, I suppose, for other nations had some piety and some religion. As to the discovery of the divine government of the world, I do not know whether he means that other nations were absolutely ignorant of it, or that the Romans "surpassed them in the knowledge of it, of the fact." Or we may take this another way, for the writer presents us with many handles to lay hold of. He says in substance that a man is a fool who, looking up to heaven, does not see that there are immortal gods; or

et dixisse et scripta de deorum immortalium numine reliquisse: quae quamquam divinitus perscripta video, tamen ejusmodi sunt ut ea majores nostri docuisse illos, non ab illis didicisse videantur. Etenim quis est tam vecors qui aut, quum suspexerit in caelum, deos esse non sentiat, et ea quae tanta mente fiunt ut vix quisquam arte ulla ordinem rerum ac necessitudinem persequi possit, casu fieri putet, aut, quum deos esse intellexerit, non intelligat eorum numine hoc tantum imperium esse natum et auctum et retentum? Quam volumus licet, patres conscripti, ipsi nos amemus, tamen nec numero Hispanos, nec robore Gallos, nec calliditate Poenos, nec artibus Graecos, nec denique hoc ipso hujus gentis ac terrae domestico nativoque sensu Italos ipsos ac Latinos, sed pietate ac religione, atque hac una sapientia, quod deorum [immortalium] numine omnia regi gubernarique perspeximus, omnes gentes nationesque superavimus.

X. Quare ne plura de re minime loquar dubia, adhibete animos, et mentes vestras, non solum aures ad haruspicum vocem admovete: QUOD IN AGRO LATINIENSI AUDITUS EST STREPITUS CUM FREMITU. Mitto haruspices, mitto illam veterem ab ipsis diis immortalibus, ut hominum fama est, Etruriae traditam disciplinam: nos nonne haruspices esse possumus? exauditus in agro propinquo et suburbano est strepitus quidam reconditus, et horribilis fremitus armorum. Quis est ex gigantibus illis quos poetae ferunt bellum diis immortalibus intulisse, tam impius, qui hoc tam novo tantoque motu non magnum aliquid deos populo Romano praemonstrare et praecinere fateatur? De ea re scriptum est, POSTILIONES ESSE JOVI, SATURNO, NEPTUNO, TELLURI, DIIS CAELESTIBUS. Audio quibus diis violatis expiatio debeatur; sed hominum quae ob delicta quaero. LUDOS MINUS DILIGENTER FACTOS POLLUTOSQUE. Quos ludos? Te appello, Lentule,—tui sacerdotii sunt tensae, curricula, prae-

believing in the gods does not see that Rome is their work.—If all but fools can see this, whence comes Rome's great superiority in seeing 'deorum immortalium numine omnia regi gubernarique?' As he says himself, a man must be a fool not to see it.

Such absurdity was never uttered by a Roman of any sense, for he knew that though Rome owed much to her religious institutions, she owed much also to her sword and her manly virtues.

10. *Agro Latiniensi*] The Latinienses are enumerated by Pliny (iii. c. 9) among the peoples of old Latium.

ex gigantibus] "Ridicule utitur hoc verbo atque adeo tempore ejus praesenti, quasi aliquem gigantem tum superesse aut inter Senatores esse significare velit. Scilicet animo hominis obversabantur verba Cic. de Senect. c. 2: 'Quid est enim aliud Gigantum modo bellare cum Diis nisi naturae repugnare?' " (Wolf).

Postiliones] "*Postiliones* Orellius (coll. Varrone, L. L. v. § 148, et Arnobio iv. c. 3): *postulationes* C." (Baiter). 'Postulationes' or 'postiliones' were the expiations.

tensae,] See Vol. I. Verr. ii. 5. c. 72. Manutius supposed that Lentulus was an 'epulo Jovis Opt. Max.' The 'epulones'

centio, ludi, libationes, epulaeque ludorum [publicorum],—vosque, pontifices, ad quos epulones Jovis Optimi Maximi, si quid est praetermissum aut commissum, afferunt, quorum de sententia illa eadem renovata atque instaurata celebrantur, qui sunt ludi minus diligenter facti, quanto aut quo scelere polluti? Respondebis et pro te et pro collegis tuis etiam pro pontificum collegio, nihil cujusquam aut negligentia contemptum aut scelere esse pollutum; omnia sollemnia ac justa ludorum, omnibus rebus observatis, summa cum caerimonia esse servata.

XI. Quos igitur haruspices ludos minus diligenter factos pollutosque esse dicunt? Eos quorum ipsi dii immortales atque illa Mater Idaea te, te, Cn. Lentule, cujus abavi manibus esset accepta, spectatorem esse voluit. Quod ni tu Megalesia illo die spectare voluisses, haud scio an vivere nobis atque his de rebus jam queri liceret. Vis enim innumerabilis incitata, ex omnibus vicis collecta, servorum ab hoc aedile religioso repente fornicibus ostiisque omnibus in scenam signo dato immissa irrupit. Tua tum, tua, Cn. Lentule, eadem virtus fuit quae in privato quondam tuo proavo. Te, nomen, imperium, vocem, aspectum, impetum tuum stans senatus equitesque Romani et omnes boni sequebantur, quum ille servorum et ludentium multitudini senatum populumque Romanum vinctum

had the power of appointing the 'epulae' for Jupiter and the other gods, and regulating the ceremonial, as we must suppose. Klotz refers to Cicero (Tuscul. iv. 2): "Nec vero illud non eruditorum temporum argumentum est, quod et deorum pulvinaribus et epulis magistratuum fides praecinunt."

quanto aut] Ernesti proposed 'quando aut,' which Baiter has.

11. *abavi*] This is a correction of the MSS. reading 'abavia.' P. Scipio, who was appointed to receive the Idaean goddess, was not the 'abavus' of Cn. Lentulus Marcellinus, but his 'atavus.' A 'proavus' is a grandfather's father; an 'abavus' is a grandfather's grandfather, and an 'atavus' is a grandfather's great-grandfather. Such is the clumsy way in which we are obliged to represent the degrees of kinship which the Romans express thus: 'filius, pater, avus, proavus, abavus, atavus' (Justin. Inst. iii. 6, De gradibus cognationis). The next step to 'atavus' is 'tritavus.' Valerius Maximus (vii. 5. 2) has made a mistake about the Scipio "qui matrem Idaeam e Phrygiis sedibus ad nostras aras focosque migrantem sanctissimis manibus excepit." If this writer has made a mistake in calling Marcellinus' ancestor his 'abavus,' Cicero has often done worse. The story about the 'Idaea mater' being brought to Rome is in Livy (29. c. 11. 14), one of the most singular instances of mingled fraud and superstition that is recorded in the long annals of Rome. P. Cornelius Scipio, the best man in Rome, was appointed to receive the stone, which the Phrygians called the mother of the gods. The illustrious stranger was brought into the temple of Victoria, which was on the Palatium, "pridie Idus Apriles, isque dies festus fuit: populus frequens dona Deae in Palatium tulit, lectisterniumque et ludi fuere Megalesia appellati."

haud scio an . . . liceret.] No variation is noted. But if it is true that this form generally means that the writer inclines to the opinion expressed by the indirect sentence after 'haud scio an,' we should have 'non liceret;' for he means to say that if Lentulus had not chosen to be a spectator on that day, we should not now be alive.

aedile] C. has 'aedili;' but Charisius (i. p. 96), quoted by Wolf, says that the ablative of 'aedilis' in good authors is 'aedile.' The 'aedilis religiosus' is Clodius. —'tuo proavo:' he means P. Scipio Nasica (In Cat. i. 1, De Domo, c. 34).

servorum et ludentium] 'servorum elu-

ipso consessu et constrictum spectaculis atque impeditum turba et angustiis tradidisset. An, si ludius constitit aut tibicen repente conticuit, aut puer ille patrimus et matrimus si terram non tenuit aut tensam, aut lorum amisit, aut si aedilis verbo aut simpulo aberravit, ludi sunt non rite facti, eaque errata expiantur, et mentes deorum immortalium ludorum instauratione placantur; si ludi ab laetitia ad metum traducti [sunt], si non intermissi, sed perempti atque sublati sunt, si civitati universae scelere ejus, qui ludos ad luctum conferre voluit, exstiterunt dies illi profesti paene funesti, dubitabimus quos ille fremitus nuntiet ludos esse pollutos? Ac si volumus ea quae de quoque deo nobis tradita sunt recordari, hanc Matrem magnam, cujus ludi violati, polluti, paene ad caedem et ad funus civitatis conversi sunt, hanc, inquam, accepimus agros et nemora cum quodam strepitu fremituque peragrare. Haec igitur vobis, haec populo Romano et scelerum indicia ostendit et periculorum signa patefecit.

XII. Nam quid ego de illis ludis loquar, quos in Palatio nostri

dentium,' Klotz, Baiter. Can any body tell how the 'stans senatus' followed the 'vox, aspectus,' and 'impetus' of Cn. Lentulus, or what the Senate, equites, and 'boni' did after being delivered up bound, &c. to the multitude?

An, si ludius] Arnobius, Adv. Gentes, iv. p. 148 (edit. Heraldi, p. 186), quoted by Markland, has the following passage: "In ceremoniis vestris rebusque divinis postilionibus locus est, et piaculis dicitur contracta esse commissio, si per imprudentiae lapsum aut in verbo quispiam aut simpuvio deerrarit, aut si rursus in solemnibus ludis curriculisque divinis commissum omnes statim in religiones clamatis sacras, si ludius constitit, aut tibicen repente conticuit, aut si patrimus ille qui vocitatur puer omiserit per ignorantiam lorum aut terram (tensam) tenere non potuit." Either Arnobius took the latter part of this extract from this oration, or he and the Declamator took it from the same place. Markland in quoting this passage writes 'terram tenere,' but Baiter, who also quotes it, writes 'tensam tenere;' and in his text he writes 'si tensam non tenuit.' 'Terram tenere' means 'manibus tangere,' as Wolf shows. "If a dancer stood still, or a 'tibicen' all at once became mute, or the youth whose father and mother are still alive did not touch the earth"—so far is plain: but Baiter follows Ant. Augustinus, and reads 'si tensam non tenuit, si lorum omisit.' The text as it stands here means if "he has not stuck to the 'tensa' or vehicle, or has lost the rein."

simpulo] 'simpuvio,' Arnobius, Baiter, Juven. vi. 343: "if the aedile made a mistake either in a word or in the vessel of libation."—'profesti:' 'pro festis,' Baiter.

peragrare.] Wolf says that Garatoni and himself were surprised that it is not 'peragrasse.' One wonders that they can be surprised at any thing in this writer. But it is plain that 'peragrare' expresses the writer's meaning. He had heard that the Mater Magna did walk about, was wont to walk about 'cum quodam strepitu fremituque;' and she therefore has displayed "to the Roman people the evidence of crimes and the signs of dangers." If she had not been accustomed to walk about with a 'strepitus' and 'fremitus,' but had on this occasion done so, the Declamator's conclusion would have been better. The whole chapter is ridiculous. Klotz says that the present 'peragrare' is used by Cicero purposely to leave it uncertain whether the act is to be considered as complete or not. "If he had said 'peragrasse,' this objection might have been readily made to him. Those are 'tempi passati;' at the present day she can no longer do it."

12. *de illis ludis*] Manutius thought it necessary to tell us that the writer seems to be going to speak of other Ludi, but yet he is speaking of the Megalesia; and so it is. The Declamator also says that the Ludi

majores ante templum in ipso Matris magnae conspectu Megalesibus fieri celebrarique voluerunt, qui sunt more institutisque maxime casti, sollemnes, religiosi, quibus ludis primum ante populi consessum senatui locum P. Africanus iterum consul ille major dedit ut eos ludos haec lues impura pollueret? quo si qui liber aut spectandi aut etiam religionis caussa accesserat, manus afferebantur; quo matrona nulla adiit propter vim consessumque servorum. Ita ludos eos, quorum religio tanta est ut ex ultimis terris arcessita in hac urbe consederit, qui uni ludi ne verbo quidem appellantur Latino, ut vocabulo ipso et appetita religio externa et Matris magnae nomine suscepta declaretur, hos ludos servi fecerunt, servi spectaverunt, tota denique hoc aedile servorum Megalesia fuerunt. Pro dii immortales! qui magis nobiscum loqui possetis, si essetis versareminique nobiscum? ludos esse pollutos significastis ac plane dicitis. Quid magis inquinatum, deformatum, perversum, conturbatum dici potest, quam omne servitium permissu magistratus liberatum in alteram scenam immissum, alteri praepositum, ut alter consessus potestati servorum objiceretur, alter

were celebrated on the Megalesia; and yet the Megalesia was the name of the Ludi. Klotz explains it thus—these games (illi ludi) were celebrated during those festival days which were denoted by the general name of Megalesia; for the Megalesia were celebrated for several days in succession. Accordingly the writer speaks first of the games which were first celebrated at the Megalesia, and then he speaks of other games (scenic) celebrated at the Megalesia also.

The story of Scipio Africanus and the Ludi is in Livy (34. c. 54): "Horum aedilium ludos Romanos primus senatus a populo secretus spectavit—Postremum ipsum quoque Africanum, quod consul auctor ejus rei fuisset poenituisse ferunt." Here the story is told of the Ludi Romani.

consessumque servorum.] It is one of the characters of a good writer to tell a story so that it can be understood. At these Ludi, which were spoiled by Clodius' men, "if any freeman had approached either for the purpose of seeing or even as a religious duty (the 'etiam' is curious) hands were laid on him; no 'matrona' went near the place because of violence and the slaves being seated there." In the preceding chapter the Senatus and the Populus Romanus were seated, and we must suppose they were turned out and the slaves took their place; a most unlikely thing, but he means that if he means any thing, and I do not affirm that he did know what he meant. After the Senatus Populusque Romanus turned out and the slaves taking their place, it seems a most ridiculous thing to talk of 'quo si qui liber,' &c.

Klotz remarks upon the words 'quo si qui liber,' that the orator here returns to his discourse, which has been interrupted by several clauses, 'Nam quid ego de illis ludis loquar;' and the passage rightly read does not cause the slightest difficulty.

Faernus changed 'pollueret' into 'polluerit,' and Baiter has followed him. But Klotz justly observes that 'pollueret' is right, for Cicero says sarcastically, he made this arrangement in order that this impure pestilence might pollute the Ludi.

qui uni . . . Latino,] "Notabilis animadversio, quasi ex Grammatici dictatis excepta. Sed absona est haec ratio: Ludi vocabulo appellantur peregrino, ut eos Magnae Matri dicatos esse appareat. Videlicet, si statim cogites Θεὰν Μεγάλην" (Wolf). I give the answer of Klotz in the original: "Es war doch bei Gott nicht so sehr schwer bei dem Worte Μεγαλήσια an die μήτηρ μεγάλη zu denken, wie Wolf annehmen möchte. Auch diese Wendung ist ganz im Geiste Cicero's."

liberatum] 'released' from what? I do not understand 'in alteram scenam immissum, alteri praepositum.'

servorum totus esset? Si examen apium ludis in scenam venisset, haruspices acciendos ex Etruria putaremus: videmus universi repente examina tanta servorum immissa in populum Romanum septum atque inclusum, et non commovemur? Atque in apium fortasse examine nos ex Etruscorum scriptis haruspices ut a servitio caveremus monerent. Quod igitur ex aliquo disjuncto diversoque monstro significatum caveremus, id quum ipsum sibi monstrum est, et quum in eo ipso periculum est ex quo periculum portenditur, non pertimescemus? Istiusmodi Megalesia fecit pater tuus, istiusmodi patruus? Is mihi etiam generis sui mentionem facit, quum Athenionis aut Spartaci exemplo ludos facere maluerit quam

apium] C., 'apum,' Orelli. Now we come to his beautiful antitheses 'swarm of bees' and 'swarm of slaves.' We can always foresee what the man is going to do. His business is to oppose words to one another. Markland says that 'universi' is an idle word, and that if the man had written 'pauci,' it would have done just as well. On which Gesner seriously observes that a wonderful thing or a crime is certainly greater, if it is seen by all than if there is no witness of it. He did not see that Markland meant that neither 'universi' nor 'pauci' was the proper word; but that the man wrote so that if for one of his words you put another, it would fit his talk equally; and this is the greatest condemnation of a writer. But Klotz has a word to say: "If a swarm of bees on the stage had shown itself among the assembled people, it would not have been so generally seen, as if whole masses of slaves fell upon the popular assembly." An ingenious suggestion. A swarm of bees if it remained stationary might not be seen by all the spectators, but if the bees flew about, they would soon disperse the people, and would be more felt than seen. The writer has unfortunately omitted the antithetic equivalent of 'universi' in the first member of the sentence.

Wolf does not think that it was at this time the fashion to summon Haruspices from Etruria for such trifles; on which Klotz observes that Wolf took this too seriously.

disjuncto diversoque monstro] This 'disjunctum diversumque monstrum' is the swarm of bees, which is 'disjunctum' because the sign and the thing signified (servitium) are not together. 'Disjunctum' may mean this, but 'diversum' has no meaning at all.—'quum ipsum sibi monstrum:' when the slaves are their own 'monstrum' (sign), when the 'monstrum,' the sign, and the words signified are one. There is not a more disgusting bit of idle talk in the whole compass of written language.

pater tuus,] Nothing is known of Clodius' father Appius having been Curule Aedile, and he could not superintend the Megalesia, if he was not aedile. In the Pro Plancio (c. 21) Cicero says: "Vidit enim pater tuus Appium Claudium, nobilissimum hominem, vivo patre suo potentissimo et clarissimo civi C. Claudio, aedilem non esse factum et eundem sine repulsa factum esse consulem." The proper conclusion from this passage is that he never was aedile. Garatoni's way of reconciling the statement in the Pro Plancio and in this oration is this: when Cicero says that Appius was not elected aedile in his father's lifetime, he means that he was elected aedile after his father's death; and when he says 'eundem sine repulsa factum esse consulem,' he means that he was indeed aedile, but after his rejection. This is very poor. Drumann (Geschichte Roms, ii. 184) states that Appius was afterwards made aedile, but he has no authority except this passage; and he observes in a note that as Wolf held the whole oration to be spurious, he accordingly doubted about the accuracy of this statement here about the aedileship. C. Claudius Pulcher the uncle was aedilis, and he celebrated games with great magnificence, B.C. 99 (Vol. I. Verr. ii. 4. c. 3; De Off. ii. 16). "Mox observanda est transitio ad tertiam personam *Is mihi* etc. hoc loco certe molesta, quum eodem spiritu oratio redeat ad personam secundam" (Wolf).

Athenionis . . . Spartaci] Athenion, who headed the slaves in Sicily (Vol. I.

Caii aut Appii Claudiorum? Illi quum ludos facerent, servos de cavea exire jubebant; tu in alteram servos immisisti, ex altera liberos ejecisti. Itaque qui antea voce praeconis a liberis semovebantur, tuis ludis non voce sed manu liberos a se segregabant. XIII. Ne hoc quidem tibi in mentem veniebat, Sibyllino sacerdoti, haec sacra majores nostros ex vestris libris expetisse? si illi sunt vestri, quos tu impia mente conquiris, violatis oculis legis, contaminatis manibus attrectas. Hac igitur vate suadente quondam, defessa Italia Punico bello atque ab Hannibale vexata, sacra ista nostri majores ascita ex Phrygia Romae collocarunt; quae vir is accepit, qui est optimus populi Romani judicatus, P. Scipio; femina autem, quae matronarum castissima putabatur, Q. Claudia: cujus priscam illam severitatem sacrificii mirifice tua soror existimatur imitata. Nihil te igitur neque majores tui conjuncti cum his religionibus, neque sacerdotium ipsum, quo est haec tota religio constituta, neque curulis aedilitas, quae maxime hanc tueri religionem solet, permovit quo minus castissimos ludos omni flagitio pollueres, dedecore maculares, scelere obligares? Sed quid ego id admiror? qui accepta pecunia Pessinuntem ipsum, sedem domi-

Verr. ii. 2. c. 10). Spartacus, the leader in the Italian Servile war.

There is more of the antithesis to wind up the chapter, 'exire jubebant' and 'immisisti,' 'non voce sed manu.'

13. *si illi sunt vestri . . . attrectas.*] Clodius, we must assume, was a decemvir. Gellius (i. 19) has the story of the Sibyl and her books: "Libri tres in sacrarium conditi Sibyllini appellati. Ad eos quasi ad oraculum Quindecemviri adeunt, quum dii immortales consulendi sunt."

Markland found fault with the words 'si illi sunt,' &c. Gesner defends it all at great length, and even 'violatis oculis' by giving to 'violatis' an active sense. Klotz remarks that the words 'si illi sunt vestri' merely refer to 'ex vestris libris,' and the meaning is this, "if 'your books' is the right expression for those which thou with impious mind consultest;" and "with this," he adds, "Markland's and Wolf's censure would be excluded." It is too tedious to state all that the critics have said here. I see no objection to Klotz's explanation. But what then? It is still what it was; very silly.

Claudia:] She is mentioned by Livy (29. c. 14). When Scipio received the goddess from her priests at the mouth of the Tiber, he handed her over to the women: "Matronae primores civitatis, inter quas unius Claudiae Quintae insigne est nomen, accepere, cui dubia ut traditur antea fama clariorem ad posteros tam religioso ministerio pudicitiam fecit" (B.C. 204).

Pessinuntem] Pessinus in Phrygia, as it is here called (c. 13), but it was in Galatia near the Sangarius, and the place where the stone was brought from. Clodius is charged with selling to Brogitarus the temple and its lands at Pessinus; but he wasted it first (vastaris); which is not wise to do when a man intends to sell a thing. In the oration Pro Sestio, c. 26, it is said that the 'fanum' was sold to Brogitar for a large sum of money, but nothing is said of its being wasted; nor yet in Strabo (p. 567). We know our writer well. He lays hold of facts and spoils them by something of his own. If Clodius sold and the Gallo-Greek bought, we may be sure that there was something worth the money. It appears from the latter part of the chapter that Brog-itar was son-in-law of Deio-tar. Both of these are genuine Gallic names. The Gallic chiefs of Galatia intermarried with the Greeks, but they kept their names, and the common sort kept their language too. This Brogitar is mentioned in the oration Pro Sestio, c. 26, and in the letters to Quintus, ii. 9. The author speaks of the great antiquity of this stone-worship at Pessinus, and of its having been respected by the

ciliumque Matris deorum, vastaris, et Brogitaro Gallograeco, impuro homini ac nefario, cujus legati te tribuno dividere in aede Castoris tuis operis nummos solebant, totum illum locum fanumque vendideris? sacerdotem ab ipsis aris pulvinaribusque detraxeris? omnia illa, quae vetustas, quae Persae, quae Syri, quae reges omnes, qui Europam Asiamque tenuerunt, semper summa religione coluerunt, perverteris? quae denique nostri majores tam sancta duxerunt, ut, quum refertam urbem atque Italiam fanorum haberemus, tamen nostri imperatores maximis et periculosissimis bellis huic deae vota facerent, eaque in ipso Pessinunte ad illam ipsam principem aram et in illo loco fanoque persolverent. Quod quum Deiotarus religione sua castissime tueretur, quem unum habemus in orbe terrarum fidelissimum huic imperio atque amantissimum nostri nominis, Brogitaro, ut ante dixi, addictum pecunia tradidisti. Atque hunc tamen Deiotarum, saepe a senatu regali nomine dignum existimatum, clarissimorum imperatorum testimoniis ornatum, tu etiam regem appellari cum Brogitaro jubes. Sed alter est rex judicio senatus per nos, pecunia Brogitarus per te appellatus: alterum putabo regem, si habuerit unde tibi solvat quod ei per syngrapham credidisti. Nam quum multa regia sunt in Deiotaro, tum illa maxime, quod tibi nummum nullum dedit; quod eam partem legis tuae quae congruebat cum judicio senatus, ut ipse rex esset, non repudiavit; quod Pessinuntem per scelus a te violatum et sacerdote sacrisque spoliatum recuperavit, ut in pristina religione servaret; quod caerimonias ab omni vetustate acceptas a Brogitaro pollui non sinit, mavultque generum suum munere tuo quam illud fanum antiquitate religionis carere. Sed ut ad haec haruspicum responsa redeam, ex quibus est primum de ludis, quis est qui id non totum in istius ludos praedictum et responsum esse fateatur?

XIV. Sequitur de locis sacris religiosis. O impudentiam miram! de mea domo dicere audes? Committe vel consulibus vel senatui vel collegio pontificum tuam. Ac mea quidem his tribus

Persians, and the Syrians, by whom he means perhaps the Greek kings of Syria. The Galli, we may assume, found this worship when they settled in Galatia, and being a nation, as Caesar says (B. G. vi.), "admodum dedita religionibus," they maintained the ceremonial. But somebody had a profit in it, for a superstition which brought in no profit to any body would not last long.

syngrapham] See Vol. I. Verr. ii. 1. c. 36. Brogitarus had bought and therefore had to pay. How he came to borrow from Clodius we know not, and it is not worth a conjecture.

praedictum] We have a 'responsum,' c. 10, "Ludos minus diligenter factos pollutosque." This 'praedictio,' says Markland, is a prediction of things past. Gesner replies as usual. But no talk can change nonsense into sense.

omnibus judiciis, ut dixi antea, liberata est. At in iis aedibus, quas tu, Q. Seio, equite Romano, viro optimo, per te apertissime interfecto, tenes, sacellum dico fuisse et aras. Tabulis hoc censoriis, memoria multorum firmabo ac docebo. Agatur modo haec res, quod ex eo senatus consulto quod nuper est factum referri ad vos necesse est, habeo quae de locis religiosis velim dicere. Quum de domo tua dixero, in qua tamen ita est inaedificatum sacellum ut alius fecerit, tibi tantummodo sit demoliendum, tum videbo num mihi necesse sit de aliis etiam aliquid dicere. Putant enim nonnulli ad me pertinere armamentarium Telluris aperire. Nuper id patuisse dicunt, et ego recordor. Nunc sanctissimam partem ac sedem maximae religionis privato dicunt vestibulo contineri. Multa me movent; quod aedes Telluris est curationis meae: quod is, qui illud armamentarium sustulit, meam domum pontificum judicio liberatam secundum fratrem suum judicatam esse dicebat. Movet me etiam in hac caritate annonae, sterilitate agrorum, inopia frugum religio Telluris, et eo magis quod eodem ostento Telluri postilio deberi dicitur. Vetera fortasse loquimur: quamquam hoc si minus civili jure perscriptum est, lege tamen naturae, communi jure gentium sanctum est, ut nihil mortales a diis immortalibus usu capere possint. XV. Verumtamen antiqua negligimus: etiamne ea negligemus, quae fiunt quum maxime, quae videmus? L. Pisonem quis nescit his temporibus ipsis maximum et sanctissimum Dianae sacellum in Caeliculo sustulisse? Adsunt vicini ejus loci,

14. *Tabulis . . . censoriis.*] Baiter, in place of 'tabulis censorum,' the common reading. The MSS. which he quotes have either 'censoris' or 'censores.'—'Q. Seio:' De Domo, c. 44.

Agatur modo haec res,] There is no difficulty in translating the rest of the chapter, but it is unintelligible.

armamentarium] P. G. E. have 'acmentarium,' out of which Mommsen has made 'magmentarium,' which Baiter has printed.

An 'armamentarium' was a place in which arms were kept, and there were several at Rome. 'Aperire,' says Manutius, means "to take away the private 'vestibulum.'" I do not know if we have any other evidence of the care (curatio) of the temple of Tellus belonging to Cicero. (Pro C. Rabirio, c. 7.)

meam domum] 'mea domo pontificum judicio liberata . . . judicatum,' Mommsen, Baiter.

postilio] '*postilio* P[1]., *postillo* P[2]. G., *post illo* E., postulatio M. O.' (Baiter). A 'postulatio' is an 'expiatio' which the gods 'postulant.'

Vetera] Old-fashioned things, things which the present enlightened age despises. He does not say that there is a rule of law which forbids a title to be got by use to things set apart for sacred purposes, though such was the rule at Rome, and it is the rule in all countries where the Law of Religion is a part of the Jus Publicum.

Jus Civile is the law of any nation: "Quod quisque populus ipse sibi jus constituit, id ipsius proprium est vocaturque jus civile, quasi jus proprium ipsius civitatis: quod vero naturalis ratio inter omnes homines constituit, id apud omnes populos peraeque custoditur vocaturque jus gentium, quasi quo jure omnes gentes utuntur" (Gaius, i. 1).

15. *negligimus . . . negligemus,*] 'negligemus . . . negligamus,' Baiter.

Caeliculo] Codd. Graevius proposes to write 'Caeliolo.' Varro (L. L. v. 46): "De Caelianis qui a suspicione liberi essent, traductos in eum locum, qui voca-

multi sunt etiam in hoc ordine, qui sacrificia gentilitia, illo ipso in sacello statuto loco anniversarii factitarint. Et quaerimus, dii immortales quae loca desiderent, quid significent, de quo loquantur? A Sex. Serrano sanctissima sacella suffossa, inaedificata, oppressa, summa denique turpitudine foedata esse nescimus? Tu meam domum religiosam facere potuisti? Qua mente? quam amiseras. Qua manu? qua disturbaras. Qua voce? qua incendi jusseras. Qua lege? quam ne in illa quidem impunitate tua scripseras. Quo pulvinari? quod stupraras. Quo simulacro? quod ereptum ex meretricis sepulcro in imperatoris monumento collocaras. Quid habet mea domus religiosi nisi quod impuri et sacrilegi parietem tangit? Itaque ne quis meorum imprudens introspicere tuam domum possit, ac te sacra illa tua facientem videre, tollam altius tectum, non ut ego te despiciam, sed tu ne aspicias urbem eam quam delere voluisti.

XVI. Sed jam haruspicum reliqua responsa videamus. ORATORES CONTRA JUS FASQUE INTERFECTOS. Quid est hoc? de Alexandrinis esse video sermonem; quem ego non refuto. Sic enim sentio, jus legatorum, quum hominum praesidio munitum sit, tum etiam divino jure esse vallatum. Sed quaero ab illo, qui

tur Caeliolus, cum Caelio nunc conjunctum."

"Dum per limina te potentiorum
Sudatrix toga ventilat, vagumque
Major Caelius et minor fatigat."
(Mart. xii. 18.)

Becker (Handbuch, i. p. 498) says that all we can assume is that the Caeliolus was within the wall of Servius. Varro's words, he says, do not prove that the Caeliolus was a part of the Caelius, but that it belonged to it. This however seems to show some proximity.

anniversarii] 'anniversaria,' Nauger., Baiter.—'tu meam domum:' his house again; introduced in order to introduce the rhetorical ornaments: 'Qua mente, qua manu,' &c.—'stuprare pulvinar:' Markland observes that the Romans said 'stuprare matronas' and the like. Gesner asks if Cicero could not say this if he liked. He quotes 'stuprata judicia' (Ad Att. i. 18). I suppose that Cicero could say 'stuprare pulvinar.'

meretricis sepulcro] The 'meretrix' again. It was too good a thing to forget (De Domo, c. 43). He concludes as usual with his trivialities, 'te despiciam,' 'tu ne aspicias urbem.' The Declamator threatens to raise his house higher to stop Clodius' prospect. He has not told us whether he could legally do it or not, nor does he care about that. He has a fine sentence to make, and that is all. "Qui luminibus vicinorum officere aliudve quid facere contra commodum eorum volet, sciat se formam ac statum antiquorum aedificiorum custodire debere" (Ulpian, Dig. 8. 2. 11). If the Declamator could raise his house and shut out Clodius' prospect, he held his land free from the 'servitutes,' "ne luminibus officiatur et ne prospectui offendatur" (Dig. 8. 2. 15).

16. *de Alexandrinis . . . refuto.*] Some ambassadors sent from Alexandria to Rome, whom Ptolemy got assassinated. "Bene interpretatur Ernestius: 'Audio, hoc vulgo sic accipi, ut ad Alexandrinos legatos pertinere dicatur.' Sed *sermonem esse* a bonis scriptoribus non ita dicitur; neque *video* idem est atque *audio*, nisi apud eum, qui rationem loquendi omnibus modis corrumpere et violenter stuprare solet" (Wolf). But Ernesti mistook the meaning, and Klotz has given it right. It is plain that the Declamator means to say: "I see that the answer of the Haruspices refers to the Alexandrine legati" (Pro M. Caelio, c. 10).

omnes judices tribunus e carcere in forum effudit, cujus arbitrio sicae nunc omnes atque omnia venena tractantur, qui cum Hermarcho Chio syngraphas fecit, ecquid sciat unum acerrimum adversarium Hermarchi, Theodosium, legatum ad senatum a civitate libera missum, sica percussum? quod non minus quam de Alexandrinis indignum diis immortalibus esse visum certo scio. Nec confero nunc in te unum omnia. Spes major esset salutis, si praeter te nemo esset impurus: plures sunt: hoc et tu tibi confidis magis, et nos prope jure diffidimus. Quis Platorem ex Orestide, quae pars Macedoniae libera est, hominem in illis locis clarum ac nobilem, legatum Thessalonicam ad nostrum, ut se ipse appellavit, imperatorem venisse nescit? quem ille propter pecuniam, quam ab eo extorquere non poterat, in vincula conjecit, et medicum intromisit suum qui legato, socio, amico, libero foedissime et crudelissime venas incideret. Secures suas cruentari scelere noluit; nomen quidem populi Romani tanto scelere contaminavit, ut id nulla re possit nisi ipsius supplicio expiari. Quales hunc carnifices putamus habere, qui etiam medicis suis non ad salutem sed ad necem utatur?

XVII. Sed recitemus quid sequatur. FIDEM JUSQUEJURANDUM NEGLECTUM. Hoc quid sit per se ipsum non facile interpretor, sed ex eo quod sequitur suspicor de tuorum judicum manifesto perjurio dici, quibus olim erepti essent nummi, nisi a senatu praesi-

omnes judices] 'iudices' G. E. M. Baiter has 'indices;' but I know not what he supposes it to mean. See c. 17.

Platorem] 'Platonem' G. E. M. (In Pison. c. 24.) Orestis was one of the divisions of Macedonia under the Romans, but it was not a part of the old kingdom of Macedonia. In B.C. 196 the Orestae were declared free: "Orestis, Macedonum ea gens est, quod primi a rege defecissent, suae leges redditae" (Livy, 33. c. 34). The Declamator says that Piso the governor called himself Imperator. Cicero (In Pison. cc. 16. 23) says, "appellatus est." The story of Plator is told in the oration In Pison. c. 24. Here it is embellished as usual. Cicero says he was a 'hospes' of Piso; and he says nothing about money. This man makes him a 'legatus.' Piso was bribed by the Dyrrachini to put the man away. All that follows in this chapter is in the Declamator's style, and it is one of the best proofs that he is an impostor.

Klotz has a note on 'ut se ipse appellavit:' "L. Piso had certainly been saluted as Imperator by his soldiers, but the Senate had not recognized him as such. Accordingly Cicero uses this odious expression."

17. *non facile interpretor,*] Nor can any body else. But he supposes that it alludes to the judices who were bribed at Clodius' trial, "whose money would have been taken from them, if they had not asked protection from the senate." Here we have another specimen of the Declamator. He turns a joke into a serious fact, which is the best evidence of a man's stupidity: "triginta et unus fuerunt quos fames magis quam fama commoverit. Quorum Catulus quum vidisset quendam, 'Quid vos, inquit, praesidium a nobis postulabatis? an ne nummi vobis eriperentur timebatis?'" This is what Cicero says in his letter to Atticus (i. 16) about the trial of Clodius (Plutarch, Cicero, c. 29). "Jocus in judices a Clodio corruptos" (Manutius): but there is no joke here. It is all sober stupidity. Klotz asks "why Cicero should not make use of this witty saying?" I do not see why Cicero should not. He has done it once.

dium postulassent. Quare autem de his dici suspicer, haec caussa est, quod sic statuo, et illud in hac civitate esse maxime illustre atque insigne perjurium, et te ipsum tamen in perjurium et te ipsum imprime ab iis quibuscum conjurasti non vocari.

Et video in haruspicum responsum haec esse subjuncta, SACRIFICIA VETUSTA OCCULTAQUE MINUS DILIGENTER FACTA POLLUTAQUE. Haruspices haec loquuntur an patrii penatesque dii? Multi enim sunt, credo, in quos hujus maleficii suspicio cadat. Quis praeter hunc unum? Obscure dicitur quae sacra polluta sint. Quid planius, quid gravius, quid religiosius dici potest? VETUSTA OCCULTAQUE. Nego ulla verba Lentulum, gravem oratorem ac disertum, saepius quum te accusaret usurpasse quam haec, quae nunc ex Etruscis libris in te conversa atque interpretata dicuntur. Etenim quod sacrificium tam vetustum est quam hoc, quod a regibus aequale hujus urbis accepimus? Quod autem tam occultum quam id, quod non solum curiosos oculos excludit, sed etiam errantes? quo non modo improbitas, sed ne imprudentia quidem possit intrare? quod quidem sacrificium nemo ante P. Clodium omni memoria violavit, nemo umquam adiit, nemo neglexit, nemo vir aspicere non horruit: quod fit per virgines Vestales, fit pro populo Romano, fit in ea domo quae est in imperio, fit incredibili caerimonia, fit ei deae, cujus ne nomen quidem viros scire fas est; quam iste idcirco Bonam dicit, quod in tanto sibi scelere ignoverit. XVIII. Non ignovit, mihi crede, non. Nisi forte tibi ignotum esse

in perjurium &c.] The passage stands thus in P. G. E. and Baiter. Clodius paid the judices what he promised, and so he was not 'perjurus' though they were, for it was their duty to give an honest verdict on oath. The 'conjuratio' was the reciprocal oath of briber and bribed. Wolf remarks on the first part of this chapter: "Nam ego jam sic affectus sum hac eloquentia, ut obmutescere libeat potius quam disertum esse in explicando; negligendumque puto lectorem, cui ne nunc quidem palatum per se sapiat."

Lentulum,] Valerius Maximus (iv. 2. 5) speaks of Clodius "incesti crimine a tribus Lentulis accusatus." Cicero does not name the prosecutor on this trial; but in the Schol. Bob. in Orat. in Clodium et Curionem (p. 336, Or.) it is said "eo crimine reus factus est P. Cl. Pulcher, delatore L. Lentulo, qui consul fuit post cum C. Marcello, subscribentibus Cn. et L. Lentulis." This L. Lentulus, who was consul with C. Marcellus, was L. Lentulus Cons. (B.C. 49).

ne imprudentia] This man is continually writing nonsense, because he must have his antithesis. 'Imprudentia' is the very thing 'quae possit intrare;' unless, and we will suppose it to be so, care was taken that even 'imprudentia' could not enter.

nemo neglexit,] 'Nemo' has yet found out the meaning of this.—'in imperio:' Caesar was Pontifex Maximus and Praetor when the rites of the Bona Dea were celebrated in his house. He was 'in imperio' as Praetor, not as Pontifex Max.; and it was as Praetor, and not as Pont. Max., that he had the honour of lending his house for this august ceremony and for Clodius' intrigue; or if his house was preferred, because he was Pontifex Maximus, he could not have had the honour unless he had been Praetor also.—'iste idcirco:' Clodius of course did not give the goddess this name; but he says 'dicit,' as if he were joking a little, "whom Clodius names the Good, because she pardoned his great crime."

putas, quod te judices emiserunt excussum et exhaustum, suo judicio absolutum, omnium condemnatum, aut quod oculos, ut opinio illius religionis est, non perdidisti. Quis enim ante te sacra illa vir sciens viderat, ut quisquam poenam quae sequeretur id scelus scire posset? An tibi luminis obesset caecitas plus quam libidinis? ne id quidem sentis, conniventes illos oculos abavi tui magis optandos fuisse quam hos flagrantes sororis? Tibi vero, si diligenter attendes, intelliges hominum poenas deesse adhuc, non deorum. Homines te in re foedissima defenderunt, homines turpissimum nocentissimumque laudarunt, homines prope confitentem judicio liberaverunt, hominibus injuria tui stupri illata in ipsos dolori non fuit, homines tibi arma, alii in me, alii post in illum invictum civem dederunt; hominum beneficia prorsus concedo tibi majora non esse quaerenda. A diis quidem immortalibus quae potest homini major esse poena furore atque dementia? nisi forte in tragoediis, quos vulnere ac dolore corporis cruciari et consumi vides, graviores deorum immortalium iras subire quam illos qui furentes inducuntur putas. Non sunt illi ejulatus et gemitus Philoctetae tam miseri, quamquam sunt acerbi, quam illa exsultatio Athamantis, et quam senium matricidarum. Tu, quum furiales in

18. *ut opinio*] Markland said it should be 'falsa opinio,' and thus the argumentation, 'Quis enim ante te,' etc., would be right. But Gesner explained it correctly: "because you have not lost your eyesight, as people suppose those do who violate these mysteries." The next sentence is very obscure, but Gesner understood it, for he explains it "Nemo enim ante te tale quid ausus fuerat." But the Declamator says it thus: "Because you have not lost your sight, as we might have expected—but we hardly know what to expect, for no man before you ever intentionally saw the 'sacra,' and so nobody can tell what punishment would follow such a crime as that." Of course the loss of sight in such a case would be too little; and we must look for another punishment. "Ipsa tota sententia putida est. Quid quaeramus de singulis?" (Wolf).

luminis . . . caecitas] Markland misunderstood this. He thought 'caecitas libidinis' meant 'freedom from libido,' as 'luminis caecitas' means, as he supposes, 'privation of sight.' But the man opposed blindness of sight to blindness of lust, in his usual elegant way. "Interdum legentem facile occaecat ipse Declamator futilitate sententiarum et antithetis suis" (Wolf).

conniventes] How can a blind man's eyes be called 'conniventes?' Gesner proves that 'connivere' means 'claudere' from Cicero (De Nat. Deor. ii. 57), who opposes 'oculis somno conniventibus' to 'apertis oculis.' But this does not prove that 'conniventes' means 'caecos.' Wolf has discovered why he says 'conniventes.' It is the antithet of 'flagrantes oculi,' the large, fiery eyes of the lady whom Cicero calls βοῶπις (Ad Attic. ii. 9), the epithet of Homer's Hera.

Appius Caecus was not the 'abavus' of Clodius. "On the different degrees in which Cicero traces the pedigree of P. Clodius from Appius Claudius Caecus, compare now W. Drumann, ii. p. 199, Rem. 39. In common life the expressions 'abavus,' 'atavus' were not taken so strictly. See c. 11. As to the blindness of Appius Caecus and the different opinions of the ancients themselves on this matter, compare now the same scholar, p. 170, Rem. 72. We learn still more of the fiery coquettish eyes of Clodia in the speech for M. Caelius, c. 20" (Klotz).

senium] 'senium' C. Wolf says that several Oxford MSS. agree in 'somnium,' which is the common reading. He thinks that 'senium' is not used for 'moeror et

contionibus voces mittis, quum domos civium evertis, quum lapidibus optimos viros foro pellis, quum ardentes faces in vicinorum tecta jactas, quum aedes sacras inflammas, quum servos concitas, quum sacra ludosque conturbas, quum uxorem sororemque non discernis, quum quod ineas cubile non sentis, tum baccharis, tum furis, tum das eas poenas quae solae sunt hominum sceleri a diis immortalibus constitutae. Nam corporis quidem nostri infirmitas multos subit casus per se; denique ipsum corpus tenuissima de caussa saepe conficitur: deorum tela in impiorum mentibus figuntur. Quare miserior es, quum in omnem fraudem raperis oculis, quam si omnino oculos non habueris.

XIX. Sed quoniam de iis omnibus, quae haruspices commissa esse dicunt, satis est dictum, videamus quid iidem haruspices a diis jam immortalibus dicant moneri. Monent, NE PER OPTIMATIUM DISCORDIAM DISSENSIONEMQUE PATRIBUS PRINCIPIBUSQUE CAEDES PERICULAQUE CREENTUR, AUXILIOQUE DIMINUITIS DEFICIANTUR, QUA RE AD UNUM IMPERIUM PECUNIAE REDEANT, EXERCITUSQUE [PULSUS] DEMINUTIOQUE ACCEDAT. Haruspicum verba sunt haec omnia: nihil addo de meo. Quis igitur hanc optimatium discordiam molitur? Idem iste: nec ulla vi ingenii aut consilii sui, sed quodam errore nostro, quem quidem ille, quod obscurus non erat, facile perspexit. Hoc enim etiam turpius afflictatur res publica, quod ne ab eo quidem vexatur, ut, tamquam fortis in pugna vir acceptis a forti adversario vulneribus adversis et honestis cadere videatur. Ti. Gracchus convellit statum civitatis: qua gravitate vir! qua eloquentia! qua dignitate! nihil ut a patris avique Africani praestabili insignique virtute praeterquam quod a senatu desciverat

afflictatio' except by the dramatic writers. The stories of Athamas, Orestes, Alcmaeon, and others were now familiar to the Romans, whose stage was supplied with tragedies by imitation of the Greeks.

nostri infirmitas] Markland ridicules 'corporis infirmitas' and 'ipsum corpus.' The 'infirmity of the body' is something that is liable to accidents, and the 'ipsum corpus' may be destroyed by a very slight thing. Gesner defends it. The thing is not worth a remark in this author. In any other there would be something to say about it.

Markland might have directed his ridicule better against the conclusion: "Quare miserior es—when you are hurried into all crime with eyes than if you had no eyes at all." His eyes only served to show him the way 'in fraudem.' This writer, who looks a long way before him, made this beautiful conclusion first, and then he had to prepare his premises. So he begins 'Non ignovit . . . quod . . . oculos non perdidisti;' and he asks 'an tibi luminis obesset caecitas plus quam libidinis?'

19. *Haruspicum verba sunt*] "In ipsis deinde Haruspicum, si credimus, verbis cum pravo ingenio Rhetoris certarunt librarii loco sic vitiando vix ut expediri possit" (Wolf).

ne ab eo . . . ut,] I do not find any remark by the critics here. The Declamator has confused the idea by a loose and inaccurate construction. His 'res publica' and his 'fortis vir' are confounded.

Ti. Gracchus . . . C. Gracchus;] There is nothing inconsistent here with what Cicero says of the Gracchi after he had been consul (Vol. II. Index).

deflexisset. Secutus est C. Gracchus; quo ingenio! qua eloquentia! quanta vi! quanta gravitate dicendi! ut dolerent boni omnes non illa tanta ornamenta ad meliorem mentem voluntatemque esse conversa. Ipse [L.] Saturninus ita fuit effrenatus et paene demens ut auctor esset egregius, et ad animos imperitorum excitandos inflammandosque perfectus. Nam quid ego de P. Sulpicio loquar? cujus tanta in dicendo gravitas, tanta jucunditas, tanta brevitas fuit, ut posset vel ut prudentes errarent vel ut boni minus bene sentirent perficere dicendo. Cum his conflictari, et pro salute patriae quotidie dimicare, erat omnino illis qui tum rem publicam gubernabant molestum, sed habebat ea molestia quandam tamen dignitatem.

XX. Hic vero, de quo ego ipse tam multa nunc dico, pro dii immortales! quid est, quid valet, quid affert, ut tanta civitas, si cadet, quod dii omen obruant, a viro tamen confecta videatur? qui post patris mortem primam illam aetatulam suam ad scurrarum locupletium libidines detulit; quorum intemperantia expleta, in domesticis est germanitatis stupris volutatus; deinde jam robustus

L. Saturninus] He was 'effrenatus et paene demens;' his favourite 'paene' (Quum Senatui, c. 15, note), but he means 'plane' here, as Wolf remarks, who also says: "Ego vero dubitem, an multum efficaciae habeat laus Saturnini, quae talis est ut eam etiam sibi sine ulla arrogantia vindicare potuerit Clodius." He adds: "Sed hoc videmus, quum dixisset Declamator *Ipse L. Saturninus*, non succurrisse ei aptiores sententias et ad hunc tribunum proprie pertinentes: ita amphoram instituit infelix artifex, sed exiit, ut saepe, urceolus."

P. Sulpicio] P. Sulpicius Rufus, tr. pl. B.C. 88, one of the faction of C. Marius, lost his life in the civil commotions of that time. He left no written speeches, but Cicero (Brutus, c. 55) says he was one of the first of orators: his language was rapid and flowing, but yet not redundant or diffuse (De Or. i. 29; iii. 3; Plutarch, Marius, c. 34, 35; Sulla, c. 10). Sulpicius could either mislead the wise or make the honest think like dishonest men, as we are here told. An oratorical power of this kind is certainly rare. We can understand how a clever orator might mislead the foolish or bring the dishonest to bad counsels; but the Declamator always misses the point. However, let it be so. Sulpicius accomplished this by the dignity of his language and his suavity, which we can understand; but I do not understand how brevity could help him. For when we speak of the means by which he accomplished his purpose, we mean to mark these means as something peculiar; and brevity, as a positive quality, is not adapted to persuade. When Cicero characterizes Sulpicius' oratory as 'yet not redundant or diffuse,' he clearly excludes brevity. He means that brevity was not a characteristic of his oratory, but fulness, and he guards against the conclusion of this fulness being in excess by the words which I have quoted.

I have never yet found an instance in which the Declamator, when contrasted with Cicero, thought or wrote like him. Such a sentence as this might pass unobserved by those who have exercised their judgment very little, but I believe that all men of sound sense will here find evidence that the man is an impostor.

20. *ego ipse*] Markland could see no meaning in 'ipse.' It is to be explained, says Klotz, by reference to 'Cum his conflictari . . . erat omnino illis,' &c.

omen obruant,] The usual word is 'avertant.' Markland finds fault with 'obruant.' Gesner thinks it is an elegant metaphor, though it is not found elsewhere. Wolf observes that this use of the verb has not yet been discovered in Cicero and never will: "quandoquidem reperiri nequit, quod non inest: qua de re diligentium Criticorum certiora sunt responsa quam Haruspicum ista aut Lexicographorum". (Wolf).

germanitatis] The word, as Markland observes, occurs in Livy (40. c. 8), where it means 'brotherhood.' So it seems, as Wolf

provinciae se ac rei militari dedit, atque ibi piratarum contumelias perpessus etiam Cilicum libidines barbarorumque satiavit; post exercitu L. Luculli sollicitato per nefandum scelus fugit illinc, Romaeque recenti adventu suo cum propinquis suis decidit, ne reos faceret; a Catilina pecuniam accepit, ut turpissime praevaricaretur. Inde cum Murena se in Galliam contulit, in qua provincia mortuorum testamenta conscripsit, pupillos necavit, nefarias cum multis scelerum pactiones societatesque conflavit. Unde ut rediit, quaestum illum maxime fecundum uberemque campestrem totum ad se ita redegit, ut homo popularis fraudaret improbissime populum, idemque vir clemens divisores omnium tribuum domi ipse suae crudelissima morte mactaret. Exorta est illa rei publicae, sacris, religionibus, auctoritati vestrae, judiciis publicis funesta quaestura; in qua idem iste deos hominesque, pudorem, pudicitiam, senatus auctoritatem, jus, fas, leges, judicia violavit. Atque hic ei gradus, o misera tempora stultasque nostras discordias, P. Clodio gradus ad rem publicam hic primus est aditus ad popularem jactationem atque ascensus. Nam Ti. Graccho invidia Numantini foederis, cui

says, to mean "jus et vinculum fratrum seu germanorum."

L. Luculli] The story of Clodius exciting mutiny in Lucullus' army is told by Plutarch (Lucullus, c. 34) and by Dion Cassius, 35. c. 14, who however, as Wolf remarks, "Clodium a piratis captum narrat *ante* istam exercitus Lucullani solicitationem." So it is said here also. But Wolf intended to write 'post,' for Dion (35. c. 17) places Clodius' capture by the pirates after he had left Lucullus.—'illinc:' 'illim,' Baiter.

Catilina] Whom Clodius accused of 'repetundae,' B.C. 65, and then acted the 'praevaricator' (In Pison. c. 10; Introd. to the orations against Catilina).

cum Murena] B.C. 64. See Pro Murena, c. 26. Drumann remarks that if Clodius did all that he is here charged with Murena did not deserve Cicero's panegyric, for he ought to have stopped Clodius. "Cicero exaggerates every way:" or the Declamator.

campestrem] He alludes to bribery in the Campus, but I do not pretend to know exactly what he means to say. Klotz admits there is exaggeration in this long list of crimes, but he contends that this does not prove that Cicero is not the author; which I grant. But 'divisores omnium tribuum . . . mactaret' is rather more than even Cicero would say in his most extravagant mood: "At *divisores* omnium tribuum a Clodio occisos Judaeus credat Apella, non quisquam Christianorum" (Wolf).

Atque hic ei gradus,] "Absurda structura verborum, neque cetera illa placent, *hic primus est aditus—adscensus.* Neque omittenda saltem est elegans correctio Lambini, *gradus ad rempubl. hic primus fuit, hic primus aditus*" (Wolf).

Ti. Graccho] We had the Gracchi in c. 19, and they appear again. This is the Declamator's fashion. His actors are worked hard. In c. 19 he told us that Ti. Gracchus 'a senatu desciverat.' Here the 'invidia Numantini foederis . . . a gravitate patrum desciscere coegit.' He has first told it us in general terms. Now he comes to the particulars. The story of the consul C. Mancinus, B.C. 137, and his treaty with the Numantini is told by Plutarch (Ti. Gracchus, c. 5). The senate did not recognize Mancinus' treaty, and the Romans gave him up to the Numantines, but the Numantini would not accept him (Cic. De Off. iii. 30). It is not true that the Numantine treaty was the cause of Gracchus 'deserting the gravity of the Senate;' for 'patrum' does not mean the 'patres' of Gracchus, as some have supposed. The passage in Cicero which comes nearest to the assertion made here is in the Brutus (c. 27). But compare Pro Sestio, c. 48. It was the Agraria Lex of Gracchus which disturbed the state. He had nothing to complain of in the matter of Mancinus.

feriendo quaestor C. Mancini consulis quum esset interfuerat, et in eo foedere improbando senatus severitas dolori et timori fuit, istaque res illum, fortem et clarum virum, a gravitate patrum desciscere coegit. C. autem Gracchum mors fraterna, pietas, dolor, magnitudo animi ad expetendas domestici sanguinis poenas excitavit. Saturninum, quod in annonae caritate quaestorem a sua frumentaria procuratione senatus amovit, eique rei M. Scaurum praefecit, scimus dolore factum esse popularem. Sulpicium ab optima caussa profectum Caioque Julio consulatum contra leges petenti resistentem longius quam voluit popularis aura provexit. XXI. Fuit in his omnibus caussa, etsi non justa, nulla enim potest cuiquam male de re publica merendi justa esse caussa, gravis tamen, et cum aliquo animi et virili dolore conjuncta. P. Clodius a crocota, a mitra, a muliebribus soleis purpureisque fasciolis, a strophio, a psalterio, a flagitio, a stupro est factus repente popularis. Nisi eum mulieres exornatum ita deprehendissent, nisi ex eo loco, quo eum adire fas non fuerat, ancillarum beneficio emissus esset, populari homine populus Romanus, res publica cive tali careret. Hanc ob amentiam in discordiis nostris, de quibus ipsis his prodigiis recentibus a diis immortalibus admonemur, arreptus est unus ex patriciis cui tribuno plebis fieri non liceret. Quod anno ante frater Metellus, et concors etiam tum senatus, principe Cn. Pompeio sententiam dicente, excluserat acerrimeque una voce ac mente restiterat, id post discidium

fuit, istaque res] 'Fuit itaque' P. G. E., 'fuit' M., 'fuit, eaque res' Baiter.

frumentaria procuratione] Pro Sestio, c. 17.—'Caioque Julio:' this was C. Julius Caesar Strabo, who though he had not been praetor, was a candidate for the consulship against the Lex Villia (Cicero, Brutus, c. 48, 63). He lost his life the next year, B.C. 87, when Cinna and Marius entered Rome and murdered Sulla's partizans (Brutus, c. 89).—'popularis aura:' one of Horace's expressions (Carm. iii. 2), and perhaps Cicero's too. Cicero has 'ventus popularis,' Pro Cluentio, c. 47: Virg. Aen. vi. 817.

21. *crocota,*] 'Crocota,' a woman's dress, said to have been used by the 'histriones' when they played women's parts. He is describing the dress of Clodius when he got into Caesar's house in female attire. Baiter writes 'fasceoli.' 'Fasciae' and 'fascioli' were used both by men and women to cover the arms and legs with. The 'strophium' confined the breasts, and the 'mitra' the hair.

"Non flavo retinens subtilem vertice mitram,
Non contecta levi velatum pectus amictu,
Non tereti strophio luctantes vincta papillas.
(Catullus, Epithal. Pelei et Thetidos, v. 65, &c.)

non liceret.] Ernesti erased 'non,' but he did wrong. Cicero says (De Legg. iii. 9): "Neminem in nos Tribunum potuisse reperiri, nisi cui ne esse quidem licuisset Tribuno."

senatus, principe] 'senatus, senatus principe,' Baiter. Clodius made an attempt, it seems, to be elected tribune the year before he was elected.

Cicero says in a letter to Atticus written in the consulship of Afranius and Metellus Celer (B.C. 60): "Est autem C. Herennius quidam tribunus pl.—is ad plebem P. Clodium traducit, idemque fert ut universus populus in Campo Martio suffragium de re Clodii ferat." See also Dion, 37. c. 51. The 'affinis et sodalis, clarissimus vir' is Cn. Pompeius, whose son married a niece of P. Clodius.

optimatium, de quo ipso nunc monemur, ita perturbatum itaque permutatum est, ut, quod frater consul ne fieret obstiterat, quod affinis et sodalis, clarissimus vir, qui illum reum non laudarat, excluserat, id is consul efficeret in discordiis principum, qui illi unus inimicissimus esse debuerat, et eo fecisse auctore se diceret, cujus auctoritatis neminem posset poenitere. Injecta est fax foeda ac luctuosa rei publicae; petita est auctoritas vestra, gravitas amplissimorum ordinum, consensio bonorum omnium, totus denique civitatis status. Haec enim certe petebantur, quum in me cognitorem harum omnium rerum illa flamma illorum temporum conjiciebatur. Excepi, et pro patria solus exarsi, sic tamen ut vos iisdem ignibus circumsepti me primum ictum pro vobis et fumantem videretis. XXII. Non sedabantur discordiae, sed etiam crescebat in eos odium a quibus nos defendi putabamur. Ecce, iisdem

qui illi unus] "A hard censure for C. Caesar" (Klotz). The Declamator means C. Caesar no doubt.—'et eo fecisse:' P. G. E. and Baiter omit 'et.' This sentence 'Quod anno' is a fine specimen of the Declamator's style. It contains many choice things: 'Quod . . . excluserat . . . restiterat.' Then, 'id,' which is the 'quod . . . excluserat . . . restiterat,' was 'ita permutatum,' that 'quod frater . . . obstiterat, quod affinis excluserat' (which is the *id* restored to its original state after the 'permutatio') 'id is consul efficeret.' A man could not write greater nonsense than this: "*Id* Caesar perficeret, qui tamen ei propter opertum Bonae Deae vel maxime infensus esse debuisset, et qui, quum perfecisset, excusandi sui causa Pompeio se auctore usum simulavit. Sic adoptione facta contra leges, injecta est fax rei publicae etc." (Wolf).—'eo auctore:' he means Cn. Pompeius, who had married Caesar's daughter Julia (B.C. 59).

exarsi,] "*Arsi* malebat Ernestius, quod putabat, *pro patria exardescere* non satis Latine construi. Illam elegantiam vix verbo memorat, qua mox *fumans* Consul tamquam *incensa domus* describitur. Auctori, opinor, compositum verbum efficacius videbatur, et apud Virgilium fortasse non satis placebat *ardens Ucalegon*, nisi et *fumaret*" (Wolf). It is no doubt very choice. This writer is inexhaustible. It takes twice as many words as he uses, and he is by no means sparing in words, to draw out of him all that is in him. A hint may help the reader, and he may apply the same method to many other beautiful passages which I have passed over. First, a foul and sorrow-bringing torch was hurled at the Res Publica; the influence of the senate was the object aimed at, and many other things, 'finally even the whole status of the state;' whatever that may mean. 'These things at least were the objects of attack,' when that 'flame of those times' was hurled against 'me cognitorem harum omnium rerum.' The 'auctoritas vestra' and other things were the objects of the assault when the flame was hurled against Cicero. Whether this 'flamma' is the famous 'fax foeda,' it is hard to say, or something else; nor have I the least idea what he means by 'cognitorem harum omnium rerum.' He received the flame (excepi), he rather put himself in the way to meet it, for he says 'pro patria solus exarsi;' from which I conclude that the 'fax foeda' did not hit the Res Publica, though aimed against it, but Cicero put himself in the way. It is true that this explanation involves an assumption of the identity of the 'Res Publica,' and the 'Patria;' which I venture to make, though with some hesitation, remembering what manner of writer I have to explain. True he 'blazed for his country,' but with a limitation expressed by 'sic tamen ut,' a form of expression which even in a good author requires a very careful translation. It means altogether: "I did blaze for my country, and though I did, you still were surrounded by the same fires, and saw me first struck for you (I leave the exact meaning uncertain) and smoking."

This 'excepi' is one of the Declamator's darling bits of rhetoric. He uses it often. Compare De Domo, c. 24, "excepi meo corpore," &c.; and c. 25, "omnem enim vim . . . acerbitas mei casus exceperat."

auctoribus, Pompeio principe, qui cupientem Italiam, flagitantes vos, populum Romanum desiderantem, non auctoritate sua solum, sed etiam precibus ad meam salutem excitavit, restituti sumus. Sit discordiarum finis aliquando; a diuturnis dissensionibus conquiescamus. Non sinit eadem ista labes: eas habet contiones, ea miscet ac turbat ut modo se his, modo vendat illis; nec tamen ita ut se quisquam, si ab isto laudatus sit, laudatiorem putet, sed ut eos quos non amant ab eodem gaudeant vituperari. Atque ego hunc non miror—quid enim faciat aliud?—illos homines sapientissimos gravissimosque miror; primum, quod quemquam clarum hominem atque optime de re publica saepe meritum impurissimi voce hominis violari facile patiuntur; deinde, si existimant perditi hominis profligatique maledictis posse, id quod minime conducit ipsis, cujusquam gloriam dignitatemque violari; postremo, quod non sentiunt id, quod tamen mihi jam suspicari videntur, illius furentes ac volaticos impetus in se ipsos posse converti. Atque ex hac nimia nonnullorum alienatione a quibusdam haerent ea tela in re publica, quae quamdiu haerebant in uno me, graviter equidem, sed aliquanto levius ferebam. An iste, nisi primo se dedisset iis quorum animos a vestra auctoritate sejunctos esse arbitrabatur, nisi eos in caelum suis laudibus praeclarus auctor extolleret, nisi exercitum C. Caesaris,—in quo fallebat, sed eum nemo redarguebat,—nisi eum, inquam, exercitum signis infestis in curiam se immissurum minitaretur, nisi se Cn. Pompeio adjutore, M. Crasso auctore quae faciebat facere clamaret, nisi consules caussam conjunxisse secum, in quo uno non mentiebatur, confirmaret, tam crudelis mei, tam sceleratus rei publicae vexator esse potuisset? XXIII. Idem, posteaquam respirare vos a metu caedis, emergere auctoritatem vestram e fluctibus illis servitutis, reviviscere memoriam ac desiderium mei vidit, vobis se coepit subito fallacissime venditare. Tum leges Julias contra auspicia latas et hic et in contionibus dicere; in

22. *violari facile patiuntur . . . dignitatemque violari;*] Markland objects to this that the man first admits 'se violari' by Clodius; and then denies that his 'dignitas' can suffer (violari) from him. Gesner has his answer, which is not worth copying. Markland's objection may be good or bad. The student will find something to admire, if he will try his own hand on the passage. The sentence 'Atque ex hac' seems to be in some disorder.

exercitum C. Caesaris,] See Quum Senatui, c. 13; the army again. Caesar's army did invade Italy some time after, when he had conquered Gallia; but this talk about it is absurd.—'in quo fallebat:' Lambinus says that we must add 'multos,' which is not in many of the MSS. But perhaps it is in none. 'Fallebat' is the same as 'lied.' See Pro Sestio, c. 16, 17.

23. *leges Julias*] The Leges enacted in Caesar's consulship, B.C. 59. See De Domo, c. 15.—'caecus amentia non videbat:' he must have been stone blind, if he could not see that.—'de caelo . . . servasset:' see De Domo, c. 15, note on 'lex curiata.'

quibus legibus inerat curiata illa lex, quae totum ejus tribunatum continebat, quam caecus amentia non videbat: producebat fortissimum virum M. Bibulum; quaerebat ex eo, C. Caesare leges ferente, de caelo semperne servasset? Semper se ille servasse dicebat. Augures interrogabat, quae ita lata essent, rectene lata essent? Illi vitio lata esse dicebant. Ferebant in oculis hominem quidam boni viri et de me optime meriti, sed illius, ut ego arbitror, furoris ignari. Longius processit: in ipsum Cn. Pompeium auctorem, ut praedicare est solitus, consiliorum suorum, invehi coepit. Inibat gratiam a nonnullis. Tum vero elatus spe posse se, quoniam togatum domestici belli exstinctorem nefario scelere foedasset, illum etiam, illum externorum bellorum hostiumque victorem affligere; tum est illa in templo Castoris scelerata et paene deletrix hujus imperii sica deprehensa; tum ille, cui nulla hostium diutius urbs umquam fuit clausa, qui omnes angustias, omnes altitudines, omnium objecta tela semper vi et virtute perfregit, obsessus est ipse domi, meque nonnulla imperitorum vituperatione timiditatis meae consilio et facto suo liberavit. Nam si Cn. Pompeio, viro uni omnium fortissimo quicumque nati sunt, miserum magis fuit quam turpe, quamdiu ille tribunus plebis fuit, lucem non aspicere, carere publico, minas ejus perferre, quum in contionibus diceret velle se in Carinis aedificare alteram porticum, quae Palatio responderet, certe mihi exire domo mea ad privatum dolorem fuit luctuosum, ad rationem rei publicae gloriosum. XXIV. Videtis igitur hominem per seipsum jampridem afflictum ac jacentem perni-

togatum . . . belli] Cicero. And now we have a fine set of antitheses, which the reader will not fail to observe; nor that we have Cn. Pompeius well shut up in his house, where the Declamator in these four orations constantly keeps him (De Domo, c. 25).

sica deprehensa;] Pro Milone, c. 7: "comprehensus est in templo Castoris servus P. Clodii, quem ille ad Cn. Pompeium interficiendum collocarat: extorta est ei confitenti sica de manibus: caruit foro postea Pompeius, caruit senatu, caruit publico: janua se ac parietibus, non jure legum judiciorumque texit." Compare this with the Declamator's work.—'altitudines moenium objectas semper,' Baiter.

In this passage of the Pro Milone we have 'jus legum,' an expression which the Declamator has used (see De Domo, c. 14, 15. 26, and the notes). Cicero says that Pompeius protected himself "by his door and the walls of his house, not by the 'jus' of the laws and the courts." I do not think that we have any English word which exactly corresponds to 'jus' in this sense. We should say by the 'authority of the laws.' If Cicero had said 'non legibus judiciisque,' he would, so far as I understand the passage, have said enough. When I wrote the notes on the passages to which I have referred, I had some doubt if 'jus legum' was a Roman expression; but perhaps the doubt only came from imperfect knowledge. When we speak of laws (statutes, enactments), we can also speak of their binding force, or power, or of that which makes them what they are; and this he seems to call 'jus' in this sense.

in Carinis] The house of Pompeius was 'in Carinis,' and Clodius threatened to pull it down and build a Porticus there as he had done on the Palatium. (Hor. Epp. i. 7. 48, and Macleane's note.) The 'mihi exire,' my leaving Rome, is the antithesis of Pompeius not being able to leave his house.

ciosis optimatium discordiis excitari, cujus initia furoris dissensionibus eorum, qui tum a vobis sejuncti videbantur, sustentata sunt. Reliqua jam praecipitantis tribunatus etiam post tribunatum obtrectatores eorum atque adversarii defenderunt; ne a re publica rei publicae pestis removeretur restiterunt; etiam ne [meam] caussam diceret, etiam ne privatus esset. Etiamne in sinu atque in deliciis quidam optimi viri viperam illam venenatam ac pestiferam habere potuerunt? quo tandem decepti munere? Volo, inquiunt, esse qui in contione detrahat de Pompeio. Detrahat ille vituperando? Velim sic hoc vir summus atque optime de mea salute meritus accipiat, ut a me dicitur; dicam quidem certe quod sentio. Mihi, medius fidius, tum de illius amplissima dignitate detrahere, quum illum maximis laudibus efferebat, videbatur. Utrum tandem C. Marius splendidior, quum eum C. Glaucia laudabat, an quum eundem iratus postea vituperabat? an ille demens et jampridem ad poenam exitiumque praeceps foedior aut inquinatior in Cn. Pompeio accusando quam in universo senatu vituperando fuit? quod quidem miror, quum alterum gratum sit iratis, alterum esse tam bonis civibus non acerbum. Sed ne id viros optimos diutius delectet, legant hanc ejus contionem de qua loquor, in qua Pompeium ornat an potius deformat? certe laudat, et unum esse in hac civitate dignum hujus imperii gloria dicit, et significat se illi esse amicissimum, et reconciliationem gratiae esse factam. Quod ego quamquam quid sit nescio, tamen hoc statuo, hunc, si amicus esset

24. *dissensionibus eorum,*] Caesar, Pompeius, Crassus, who at that time were at variance with the optimates (Manutius).

Reliqua jam praecipitantis] "I. e. ad finem ruentis. Sed, si tria tempora indicare voluit auctor, incipientis, desinentis, finiti tribunatus; quomodo sic loqui potuit, ut tempus *post tribunatum* sub altero illo, *reliqua praecipitantis tribunatus*, comprehendere videatur? Mera stribligo est" (Wolf). 'Praecipitans tribunatus' is a correct expression, I believe. It is one of the Declamator's at least: "praecipitante jam et debilitato tribunatu."—'obtrectatores eorum:' "those whom I have often mentioned, Bibulus, Cato, Domitius" (Manutius).

[*meam*] *caussam*] G. E. M. have 'meam.' I do not understand it.—'ne privatus esset:' he had been elected aedile. "For as they contrived to have the 'comitia' held before Clodius' trial, they took care to have him elected Aedilis Curulis" (Manutius). This was to prevent his trial taking place. How then could he be threatened with a trial, as he is in c. 4, note?

sinu] Nic. Angelius: 'senatu' C.

Glaucia] He was at first a friend of C. Marius, afterwards an enemy. He perished with the tribune Saturninus. See the introduction to the oration Pro C. Rabirio, Vol. II. 472.

Sed ne id . . . delectet,] "Scil. *Pompeium a Clodio vituperari*, ut recte subaudit Manutius, sed divinitus, non ex bene vincto sermone. Nihil vero absurdius est, quam quod invitatur Senatus ad *legendam Clodii concionem*, quam tamen modo paucis ante horis, habitam supra finxerat. Meminitne Declamator se (c. 4) dixisse, *ad se delatam concionem*, quod nemo de scriptis exemplaribus acceperit? an opinatus est, in paucis diebus talem orationem apud omnes Sosios in columnis expositam fuisse? Noli suspicacior esse: nihil meminit Declamator; oblitus est et loci et temporis harum nugarum suarum" (Wolf).

tamen hoc statuo, hunc, si amicus esset]

Pompeio, laudaturum illum non fuisse. Quid enim, si illi inimicissimus esset, amplius ad ejus laudem minuendam facere potuisset? Videant ii qui illum Cn. Pompeio inimicum esse gaudebant ob eamque caussam in tot tantisque sceleribus connivebant, et nonnumquam ejus indomitos atque effrenatos furores plausu etiam suo prosequebantur, quam se cito inverterit. Nunc enim jam laudat illum: in eos invehitur quibus se antea venditabat. Quid existimatis eum, si reditus ei gratiae patuerit, esse facturum, qui tam libenter in opinionem gratiae irrepat? XXV. Quas ego alias optimatium discordias a diis immortalibus definiri putem? nam hoc quidem verbo neque P. Clodius neque quisquam de gregalibus ejus aut de consiliariis designatur. Habent Etrusci libri certa nomina, quae in id genus civium cadere possint. DETERIORES, REPULSOS, quod jam audietis, hos appellant, quorum et mentes et res sunt perditae longeque a communi salute disjunctae. Quare, quum dii immortales monent de optimatium discordia, de clarissimorum et optime meritorum civium dissensione praedicunt, quum principibus periculum caedemque portendunt, in tuto collocant Clodium, qui tantum abest a principibus quantum a puris, quantum a religiosis. Vobis, o clarissimi atque optimi cives, et vestrae saluti consulendum et prospiciendum vident. Caedes principum ostenditur; id quod interitum optimatium sequi necesse est adjungitur: ne in unius imperium res recidat admonemur. Ad quem metum si deorum monitis non duceremur, tamen ipsi nostro sensu conjecturaque raperemur. Neque enim ullus alius discordiarum solet esse exitus inter claros et potentes viros, nisi aut universus interitus aut victoris dominatus aut regnum. Dissensit cum Mario, clarissimo cive, consul nobilissimus et fortissimus, L. Sulla. Horum uterque ita cecidit victus ut victor idem regnaverit. Cum Octavio

Garatoni thought that this was all trifling, if it was said seriously, but it is not. The foundation of the merriment is, it is said, that the senators knew that Pompeius was not reconciled to Clodius, as a letter of Cicero to his brother shows (Ep. Ad Q. Fr. iii. 4). Wolf, after giving Garatoni's explanation, says: "Nobis ut reliqua horum non displicent, ita jocari nunc orator non videtur, sed vulgarem sententiam de laude turpissimi hominis magnum virum dehonestante nimis pueriliter persequutus esse." That is the true explanation.

reditus ei gratiae patuerit,] Markland observes that the Romans said 'redire in gratiam,' and 'reditus in gratiam,' but not 'reditus gratiae' (De Prov. Cons. c. 20; Pro Mil. c. 32; Ad Att. ii. 3). Gesner admits that 'reditus gratiae' does not occur elsewhere; but he asks if for that reason Cicero could not have written it? He quotes Horace's 'prisca Venus redit' (Carm. iii. 9), as if it were the same thing.

25. *Habent Etrusci libri*] The Etruscan 'libri' of the Declamator. Klotz properly remarks that any body could interpret 'Deteriores, Repulsos' just as he pleased. "Bene monet, ex Etruscorum libris verba sua petiisse Haruspices. Nam Romae non reperimus ista nomina tamquam certa et propria in hoc genere usurpata, oppositis *optimatibus*" (Wolf).

collega Cinna dissedit. Utrique horum secunda fortuna regnum est largita, adversa mortem. Idem iterum Sulla superavit: tum sine dubio habuit regalem potestatem, quamquam rem publicam recuperarat. Inest hoc tempore haud obscurum odium, atque id insitum penitus et inustum animis hominum amplissimorum; dissident principes; captatur occasio. Qui non tantum opibus valent nescio quam fortunam tamen ac tempus exspectant. Qui sine controversia plus possunt, ei fortasse nonnumquam consilia ac sententias inimicorum suorum extimescunt. Tollatur haec e civitate discordia: jam omnes isti qui portenduntur metus exstinguentur; jam ista serpens, quae tum hic delitescit, tum se emergit et fertur illuc, compressa atque illisa morietur. XXVI. Monent enim iidem NE OCCULTIS CONSILIIS RES PUBLICA LAEDATUR. Quae sunt occultiora quam ejus, qui in contione ausus est dicere, justitium edici oportere, jurisdictionem intermitti, claudi aerarium, judicia tolli? nisi forte existimatis hanc tantam colluvionem illi tantamque eversionem civitatis in mentem subito in Rostris nec cogitanti venire potuisse. Est quidem ille plenus vini, stupri, somni, plenusque inconsideratissimae ac dementissimae temeritatis: verum tamen nocturnis vigiliis, etiam coitione hominum, justitium illud con-

hic delitescit,] 'Hic' is supposed to mean the Senate, and 'illuc' the people, or the popular assemblies. The 'serpent' is Clodius. Graevius suggested 'elisa.'

26. *Monent enim*] "Obscurum est quam connexionem faciat particula causalis. Ergo Garatonius *enim* mutat in *etiam*" (Wolf). The connexion is as clear as usual on this writer: "Let discord be removed, and then the lurking serpent, which sometimes shows itself, will be strangled; for it is against secret dangers that the Haruspices warn us."

It would take more words than the author has used to examine all that he has said here. Markland could not understand these 'occultiora,' which Clodius proclaimed in public. Gesner explains it: "Fieri posse negatur ut occulta sint quae dicantur in contione. Sed quis ita stupidus est ut affirmet? Non profecto auctor." We must look, he says, to the words 'nocturnis vigiliis, etiam coitione hominum, justitium illud concoctum ac meditatum est.' Gesner concludes: "Ergo occultis consiliis nocturnis constitutum est, quomodo ageret ad populum Clodius." Wolf says, "Non displicet haec speciosa interpretatio qua tamen non admodum minuitur culpa scriptoris." Not much certainly. Secret things are those which are kept secret, not proclaimed in public. It requires no great sagacity to see that secret things must be planned secretly; but they must be kept secret too till the time comes for executing the design. —'nec cogitanti:' 'cogitanti' P., Baiter; 'ei cogitanti' G. E., 'nec cogitanti' M. Lambinus thought that 'nec cogitanti' was absurd. But if the Declamator meant to say, "unless you suppose that this came into his mind all at once on the 'rostra,'" he would not have added 'cogitanti,' a word which is quite superfluous, unless it is qualified. I do not think that even the Declamator would write so. Lambinus proposes 'in rostris concionanti;' which is at least better than 'cogitanti' alone. However, the Declamator adds, this design was formed by night in deliberation with others; therefore it was not a sudden thought on the Rostra, nor did it there drop from him without reflection; therefore being secret, formed in secret, it became more secret by being proclaimed. This is the man's argumentation; for he says 'quae sunt occultiora?' He did not mean to say what I have fixed upon him. But he does say it. A better writer would have found a way of avoiding this absurdity, even if he meant to say the same thing.

coctum ac meditatum est. Mementote, patres conscripti, verbo illo nefario tentatas aures nostras, et perniciosam viam audiendi consuetudine esse munitam.

Sequitur illud, NE DETERIORIBUS REPULSISQUE HONOS AUGEATUR. Repulsos videamus: nam deteriores qui sint post docebo. Sed tamen in eum cadere hoc verbum maxime, qui sit unus omnium mortalium sine ulla dubitatione deterrimus, concedendum est. Qui sunt igitur repulsi? Non, ut opinor, ii qui aliquando honorem vitio civitatis, non suo, non sunt assecuti. Nam id quidem multis saepe optimis civibus atque honestissimis viris accidit. Repulsi sunt ii, quos ad omnia progredientes, quos munera contra leges gladiatoria parantes, quos apertissime largientes non solum alieni, sed etiam sui, vicini, tribules, urbani, rustici reppulerunt. Hi ne honore augeantur monent. Debet esse gratum quod praedicunt; sed tamen huic malo populus Romanus ipse nullo haruspicum admonitu sua sponte prospexit. Deteriores cavete; quorum quidem magna est natio; sed tamen eorum omnium hic dux est atque princeps. Etenim si unum hominem deterrimum poeta praestanti aliquis ingenio fictis conquisitisque vitiis deformatum vellet inducere, nullum profecto dedecus reperire posset quod in hoc non inesset, multaque in eo penitus defixa atque haerentia praeteriret. XXVII. Parentibus et diis immortalibus et patriae nos primum natura conciliat; eodem enim tempore et suscipimur in lucem et hoc caelesti spiritu augemur et certam in sedem civitatis ac libertatis ascribimur. Iste parentum nomen, sacra, memoriam, gentem Fonteiano nomine obruit: deorum ignes, solia, mensas, abditos ac

aures nostras,] Markland had the reading 'vestras.' He asks how could the senators' ears be 'tentatae,' when Clodius said this, not in the senate, but before the people? They sent their 'notarii,' shorthand writers, says Gesner, to take the man's speech down and bring it to them. "Igitur et nos errabamus, non Declamator, in ea re de qua dicebamus c. 24" (Wolf). Any body might have carried away as much as we are told that Clodius said. But it is idle work to explain this man, and to give him an exact meaning when he had none. He had to form a phrase, which is this: "remember that he made a trial of our (your) ears by that nefarious word (he means 'words'), and that a pernicious way was paved (a road to ruin, perhaps) by the habit of hearing." A man may ask himself more questions about this, than he can answer.

ad omnia progredientes,] "Significat *omnia aggredientes, omnia sibi arrogantes.* Ceterum pleraque istorum pigmentorum de *repulsis* petita sunt ex causa Vatinii, ut intelligitur ex Cic. in hunc Orat. c. 15, extr. Clodius, quod sciam, nullam repulsam tulerat" (Wolf).

27. *natura conciliat;*] 'Natura' means 'generation and mode of existence;' for it is the 'natura' of man, his being what he is, which determines his relationship to his parents, to the immortal gods, and to his country; for "at the same time we are both produced into the light of day, and receive the increase of this celestial spirit, and we are determined to a certain fixed place as citizens and free men." The Declamator found this somewhere, and makes it the text for the pitiable stuff which follows.

penetrales focos, occulta et maribus non invisa solum, sed etiam inaudita sacra inexpiabili scelere pervertit, idemque earum templum inflammavit dearum, quarum ope etiam aliis incendiis subvenitur. Quid de patria loquar? qui primum eum civem vi, ferro, periculis, urbe, omnibus patriae praesidiis depulit, quem vos patriae conservatorem esse saepissime judicaritis; deinde everso senatus, ut ego semper dixi, comite, duce, ut ille dicebat, senatum ipsum, principem salutis mentisque publicae, vi, caede incendiisque pervertit: sustulit duas leges, Aeliam et Fufiam, maxime rei publicae salutares: censuram exstinxit: intercessionem removit: auspicia delevit: consules, sceleris sui socios, aerario, provinciis, exercitu armavit; reges qui erant vendidit; qui non erant appellavit: Cn. Pompeium ferro domum compulit: imperatorum monumenta evertit: inimicorum domos disturbavit: vestris monumentis suum nomen inscripsit. Infinita sunt scelera, quae ab illo in patriam sunt edita. Quid, quae in singulos cives, quos necavit? socios, quos diripuit? imperatores, quos prodidit? exercitus, quos tentavit? Quid vero ea, quanta sunt, quae in ipsum se scelera, quae in suos edidit? Quis minus umquam pepercit hostium castris quam ille omnibus corporis sui partibus? Quae navis umquam in flumine publico tam vulgata omnibus quam istius aetas fuit? Quis umquam nepos tam libere est cum scortis quam hic cum sororibus volutatus? Quam denique tam immanem Charybdim poetae fingendo exprimere potuerunt, quae tantos exhaurire gurgites posset, quantas iste Byzan-

inflammavit dearum.] Said in plainer words in the oration Pro Milone, c. 27: "nympharum aedem incendit;" and Paradox. iv.: "Nympharum aedes manu tua deflagrarunt." Markland observes that the addition is not bad, 'quarum ope etiam aliis incendiis subvenitur,' if it is certain that this Nymphal temple burnt by Clodius was a temple of the Naiades. I wonder that the 'Britannus' made this concession. "Nobis ea subfrigida et scholastica videtur, uti tot similes sententiae in his capitibus, quas singillatim notare non duximus operae pretium. Vere enim Aristoteles dixit: *Εὔηθές ἐστι τὸ τοὺς εὐήθεις τῶν λόγων λίαν ἐξετάζειν*" (Wolf).

Aeliam et Fufiam,] See Quum Senatui, c. 5.—'Cn. Pompeium . . . domum compulit:' "i. e. domo se tenere coegit, *domi continuit, inclusit.* Loquutio sumpta ex Or. in Pison. c. 7, ubi respondet contrariis verbis, *me domo mea expulistis.* Sed magis haeserit aliquis paullo ante in *Senatu mentis publicae principe:* quod quid sit, nec capio, neque alias mihi lectum memini" (Wolf). This is Cn. Pompeius' last appearance. We have indeed seen little of him in these speeches. He has been shut up in his house.

vestris monumentis] De Domo, c. 44.

hostium castris . . . corporis sui partibus?] The man who wrote this was utterly devoid of understanding; and what follows about the ship is stupid beyond endurance. Markland in his impatience even maintains that 'aetas' cannot be used absolutely for 'florens aetas,' or 'bona aetas,' as the poets have it. Gesner proves that he is wrong: "Damna, dedecora, quae res patris ejus, aetas ipsius pertulit, praetereantur" (Vol. I. Verr. ii. 1. c. 12).

Quam denique tam . . . mandentem?] He grows warm: he is coming to the end; and what an end! All criticism on this wretched stuff is waste of labour.

quae tantos . . . posset,] 'quae tantos exhauriret gurgites' Halm, Baiter.—'eminentibus:' Markland thought that we ought

tiorum Brogitarorumque praedas exsorbuit? aut tam eminentibus canibus Scyllam tamque jejunis quam quibus istum videtis Gelliis, Clodiis, Titiis, Rostra ipsa mandentem?

Quare, id quod extremum est in haruspicum responso, providete NE REI PUBLICAE STATUS COMMUTETUR. Etenim vix haec, si undique fulciamus, jam labefacta, vix, inquam, nixa in omnium nostrum humeris cohaerebunt. XXVIII. Fuit quondam ita firma haec civitas et valens, ut negligentiam senatus vel etiam injurias civium ferre posset. Jam non potest. Aerarium nullum est: vectigalibus non fruuntur qui redemerunt: auctoritas principum cecidit: consensus ordinum est divulsus: judicia perierunt: suffragia discripta tenentur a paucis: bonorum animus ad nutum

to write 'imminentibus,' because he supposes that this is taken from the Verr. ii. 2. c. 54: "Nam ipsum Verrem tantum avaritia semper hiante atque imminenti fuisse." The other part of the sentence, he supposes, may be an imitation of the Verr. ii. 3. c. 11: "Horum canum quos tribunal meum vides lambere;" and Graevius would have changed 'mandentem' in this passage into 'lambentem,' manifestly to the injury of the sense; for as Gesner says, after remarking on the propriety of the expression 'canes eminentes:' "similis pictura et vehementia est in canibus Clodii, h. e. rabulis, *rostra* ipsa *mandentibus*, quam admirari satius quam reprehendere." Ernesti has a wonderful exposition of the passage. 'Rostra' are ships. Scylla's dogs only eat men; Clodius' dogs were so hungry that they swallowed even the ships, that is, the Res Publica itself, by means of the Leges which Clodius proposed on the Rostra.

quantas iste . . . exsorbuit?] "It is almost ludicrous when Wolf, in order to prove that this speech is not genuine, remarks here that no person who was not informed in some other way, could have known what the orator here alludes to. For that is precisely a complete proof that the orator had before him persons who were informed of the crimes of P. Clodius or of the crimes imputed to him, that is, that consequently the genuine Cicero spoke in the genuine Senate. Besides, it was not Cicero's purpose to say whether P. Clodius had got all which had been promised to him in writing; and so he might quite correctly say 'praedas exsorbuit,' if Brogitarus was a slow payer, or even if Clodius had still money to receive in Byzantium" (Klotz).

The note to which Klotz refers is not Wolf's, but Garatoni's, whose words Wolf has copied; and he says: "Haec omnia Garatonii verba adscripsi, quia sunt ejusmodi, ut vix aliter scribere potuisset vir optimus, si nostram sententiam de auctoritate orationis amplexus esset."

Wolf uses Garatoni's words, which however, as he says, express what he would have said. The objection is not exactly made as Klotz states it. The objection is this: If we did not know by other means what the matter was, we might suppose that Clodius had plundered Byzantium, and we should have expected the name of another people, who shared the misfortunes of the Byzantini. The story about the Byzantini is told in the Pro Sestio, c. 26, and of Brogitarus and the temple of Pessinus. Brogitarus is mentioned in this oration, c. 13. The matter is not worth a further thought. Klotz assumes that it is evidence of this speech being by Cicero and having been delivered in the Senate, that the writer says what the Senate would understand, though we might not. It is no evidence either one way or the other.

ne rei publicae] "Cicero knew how to handle dexterously this warning also, which manifestly referred to the bad design which the Triumviri harboured against the state, and with all his intimations about the real state of things, he still came forward not altogether without precaution" (Klotz). The Triumviri, falsely so called, were Pompeius, Crassus, and Caesar.

28. *Aerarium . . . vectigalibus*] Klotz refers to In Pison. c. 34, 40, and De Prov. Cons. c. 5. The Declamator falls into extravagant assertions here, in his usual way.

discripta] '*discripta* in rasura P[2].; *districta* M.' Here we have evidence of a genuine form, which evidence is hard to get,

nostri ordinis expeditus jam non erit: civem qui se pro patriae salute opponat invidiae frustra posthac requiretis. Quare hunc statum, qui nunc est, qualiscumque est, nulla alia re nisi concordia retinere possumus: nam ut meliore simus loco ne optandum quidem est, illo impunito; deteriore autem statu ut simus, unus est inferior gradus, aut interitus aut servitutis. Quo ne trudamur dii immortales nos admonent, quoniam jampridem humana consilia ceciderunt. Atque ego hanc orationem, patres conscripti, tam tristem, tam gravem, non suscepissem; non quin hanc personam et has partes honoribus populi Romani, vestris plurimis ornamentis mihi tributis deberem et possem sustinere; sed tamen facile tacentibus ceteris reticuissem: sed haec oratio omnis fuit non auctoritatis meae, sed publicae religionis. Mea fuerunt verba fortasse plura, sententiae quidem omnes haruspicum, ad quos aut referri nuntiata ostenta non convenit, aut eorum responsis commoveri necesse est. Quod si cetera magis pervulgata nos saepe et leviora moverunt, vox ipsa deorum immortalium non mentes omnium permovebit? Nolite enim id putare accidere posse, quod in fabulis saepe videtis fieri, ut deus aliqui delapsus de caelo coetus hominum adeat, versetur in terris, cum hominibus colloquatur. Cogitate genus sonitus ejus quem Latinienses nuntiarunt: recordamini illud etiam, quod nondum est relatum, quod eodem fere tempore factus in agro Piceno Potentiae nuntiatur terrae motus horribilis, cum quibusdam multis

for it has generally been suppressed. Baiter has 'descripta.'

Quare hunc statum,] "H. e. *miserum*, qualis describitur inde a verbis *Etenim vix haec* etc. Jam nihil quidem minus expectes quam de hoc statu retinendo. Sed ex angustiis, quo delapsus erat, enatat Sophistes artificiis suis: *ut meliore simus loco* etc. Nunc autem si hoc sperare non licet ac ne optare quidem (Cicero dixisset, *magis optandum quam sperandum est*), nisi iste puniatur: cur non id ipsum postulat orator ut puniatur? Cur satis habuit, *duobus inceptis verbis* (c. 1) periculum judicii intendisse?" (Wolf.)

verba fortasse plura,] Certainly.—'sententiae quidem omnes haruspicum:' he found the words, and too many: the Haruspices found the 'sententiae,' the meaning or the sense, a very ingenuous confession. But what does he mean exactly by his antithesis?

Quod si cetera] "Jam novum *examen apum* metuas ut c. 12. At metum leviorem, ut fit, gravior expellit *vox ipsa deorum immortalium*, h. e. sonitus apud Latinienses et terrae motus quidam" (Wolf). He tells them not to expect to see the gods themselves come down, as we see them on the stage. One hardly knows what the Senate might have expected after this speech, if he had not told them that they would only hear the gods. The Mater Magna, however, one of the 'Dei immortales,' did go about the fields and forests 'cum quodam strepitu fremituque' (c. 11).

quod nondum est relatum,] "Nisi tandem hominem verba defecissent, aggrederetur fortasse nobis novam de nihilo historiam condere, aut ipse referre ad Senatum de terrae motu horribili. Verum, quaecunque demum causa nos defraudavit hac relatione, ipsa haec levissima rei mentio ante portam claudendam nimis putida videri debebit" (Wolf).

Potentiae] Now Potenza, south of Ancona, and on the coast of the gulf of Venice. One would expect that the matter of this horrible earthquake would have been 'relatum,' as well as the 'sonitus,' the 'genus' of which they are asked to remember.

quibusdam multis] Mommsen proposes

metuendisque rebus: haec eadem profecto, quae prospicimus, impendentia pertimescetis. Etenim haec deorum immortalium vox, haec paene oratio judicanda est, quum ipse mundus, quum agri atque terrae motu quodam novo contremiscunt et inusitato aliquid sono incredibilique praedicunt. In quo constituendae nobis quidem sunt procurationes et obsecratio, quemadmodum monemur. Sed faciles sunt preces apud eos qui ultro nobis viam salutis ostendunt: nostrae nobis sunt inter nos irae discordiaeque placandae.

'quibusdam invisis.' Markland supposed that 'quibusdam multis' was said for 'multis aliis,' though it is unusual. He thinks that this may be supported by the passage in the oration In Pis. c. 4: "Collegia, non ea solum, quae Senatus sustulerat, restituta, sed innumerabilia quaedam nova ex omni faece urbis ac servitio concitata." "Injusta est haec lenitas. Nullo loco vox *quaedam* illam potestatem habere potest. Nova *quaedam* collegia contraria sunt *nobis et a Senatu sublatis;* sicut dicetur *res inaudita quadam*, *mirabilis quaedam;* nec pertinet *quaedam* ad innumerabilia" (Wolf).

Diximus.

Ite jam, si videtur, in suffragium, Lectores; memores de vestris etiam sententiis judicaturos esse posteros.—Gesnerus.

" Sequuntur deinde Novem orationes, quas habet codex primarius, Parisinus ille num. 7794. Harum agmen ducunt orationes illae quattuor, quas Frid. Aug. Wolfius a Cicerone scriptas esse negavit, nos tamen summo oratore minime indignas videri judicamus una illa excepta, quam populo gratias agens habuisse fertur. Laturusne fuerit Wolfius eandem sententiam, si nunc has orationes, postquam multis mendis codicum ope repurgatae sunt, legeret, supervacaneum est quaerere; sed hoc saltem nomine reprehendendus videtur, quod, ut Madvigii verbis (in Opusc. acad. i. p. 193 not.) utamur, Gruterianas sordes exagitare maluit tamquam declamatoris ineptias quam adhibitis, quae parata erant, aliisque provisis subsidiis in emendata scriptura certum ponere fundamentum" (I. G. Baiterus et C. Halmius, in their Preface to the second part of Orelli's Cicero's Orations, 1855).

If these learned editors had carefully read Wolf's Preface to his edition of these orations and his notes, or if they had stated what his arguments against these orations really are, they would have seen that if these orations were so purged as to contain nothing but the purest Latin, Wolf must still have declared them spurious for those reasons which he has stated in his Preface; for if the Latinity can be made free from all censure, there still remain those objections to the genuineness of these speeches, which are not founded on the language, but on other matter (see p. 297).

INTRODUCTION

TO THE

ORATION FOR P. SESTIUS.

P. Sestius was a member of the Collegium tribunorum in B.C. 57 in the consulship of P. Lentulus Spinther and Q. Metellus Nepos, and one of those who were most active in getting Cicero recalled to Rome. Clodius was determined to prevent Cicero's recall, if he could. He got people together for riotous purposes, and in one of these broils P. Sestius was dangerously wounded (Pro Sestio, c. 37; Ad Q. Fr. ii. 3). Sestius, following the example of T. Annius Milo, also one of Cicero's friends, collected a body of gladiators to protect him in his future attempts on Cicero's behalf. After Cicero's return Sestius was prosecuted under the Lex Plautia de Vi, in the consulship of Cn. Cornelius Lentulus Marcellinus and L. Marcius Philippus, B.C. 56. The Scholiast says that P. Clodius "began to prosecute Sestius de vi by urging against him as chief in the management of the indictment P. Albinovanus, and P. Vatinius gave evidence against him." This Albinovanus is named M. Tullius in a letter of Cicero to his brother (Ad Q. Fr. ii. 3). We learn from another passage of Cicero (In Vatin. c. 1) that Vatinius not only gave evidence against Sestius, but also communicated to Albinovanus some harangues in writing made by Sestius before the people. L. Aemilius Paullus and L. Gellius Poplicola also gave evidence against Sestius (Pro Sestio, c. 51; In Vatin. c. 2).

The principal charge against Sestius was that having gone beyond the limits allowed by law, he had not carried his Rogatio for Cicero's restoration by persuading the people, but by force of arms. Manutius in his Argumentum states that Sestius was tried for the bloody affray of the VIII Kal. Febr. between his followers and those of Clodius. But Ferratius shows from this oration that this is a great mistake. On the VIII Kal. Febr. Q. Fabricius proposed the Rogatio, which was the occasion of a fight (Pro Sestio, c. 35); but Sestius was not present on that

day. The acts for which he was tried took place after. On his coming into the temple of Castor, trusting to the sanctity of his office and there making an Obnuntiatio to the consul, Clodius' men fell on him and he barely escaped with his life. Though Sestius alone had cause to complain of this violent attack, it was made one of the charges against him; and the other charge was that from this time he had gladiators about him, and carried measures by threats and force.

Sestius was defended by Q. Hortensius and M. Crassus. The Scholiast adds C. Licinius Calvus as one of the defenders of Sestius; but Macer Licinius, as Cicero calls him in a letter to his brother (Ad Q. Fr. ii. 4), is merely mentioned as being on Sestius' side (a Sestii subselliis surrexit); as a witness, as some suppose. The orators distributed the parts of the defence among them, and Cicero spoke last (c. 2). "Accordingly Tullius managed the part which was assigned to him; nor did he, as most people have supposed, digress from the matter; for though we know that Cicero when under the influence of anger or of vexation about his sufferings, was accustomed to exaggerate even beyond what circumstances required, yet his filling a large part of this speech with a long description of a very turbulent time seems in no small degree to be connected with the present business. For it was necessary to show the riotous and turbulent proceedings and illegal acts of Clodius from which Cicero had suffered, and the advantage which his country had got by his restoration; and that if it be allowed that Sestius got armed men together for a proper purpose and of necessity, for that reason of all others he ought to be acquitted of the present calumnious charge."

The praetor who presided at this trial was M. Aemilius Scaurus, as we are informed in one of Cicero's letters (Ad Q. Fr. ii. 4): "Sestius noster absolutus est a. d. II Id. Mart. (if that is the true reading, 'pridie id. Mart.') et quod vehementer interfuit rei publicae nullam videri in ejusmodi caussa dissensionem esse, omnibus sententiis absotus est."

A large part of this oration is about Cicero himself. He begins with a short sketch of Sestius' early life (c. 1—5): but before speaking of the tribuneship he considers it necessary to describe the turbulent period of the previous year (B.C. 58). He begins with the story of P. Clodius being adopted by a plebeian (B.C. 59) and so being qualified to be elected a tribunus pl. (c. 6—15). We have then all the story of Cicero being driven from Rome (c. 16—24), and of the condition of the commonwealth (B.C. 58) in the consulship of Piso and Gabinius (c. 25—31).

He then comes to the case of Sestius, and describes the measures taken for his recall by his friends and the tribune Sestius among them;

and the disturbances at Rome which were caused by Clodius and his partizans' opposition to Cicero's restoration. On the great day of the 25th of January, when Fabricius (c. 35) intended to propose to the people a Rogatio for Cicero's recall, Clodius and his men attacked Fabricius and his party; many were killed, and Cicero's brother Quintus was severely wounded. Sestius was not present on that day. On another day, trusting to his tribunitian office, he went to the temple of Castor (c. 37) to stop some proceedings of the consul by the form of Obnuntiatio, which he could legally do. Clodius' men fell on the tribune and nearly killed him; and it was not till he had suffered this violence, that Sestius protected himself by keeping armed men about him; and Milo did the same. Sestius only protected himself against violence; and he was guilty of none.

The orator then (c. 45) enters on a kind of political discussion, which he supposes to be profitable to those who heard him, and not altogether foreign to the case: he explains the character of the two parties in the Roman State which were severally called Populares and Optimates.

In this part of his speech he makes an attack on L. Gellius, one of those who were to give evidence against Sestius (c. 51). And he answers what the prosecutor of Sestius had said about Cicero's recall to Rome, and the way in which it had been accomplished (c. 60). He ends with addressing the young men (c. 61), whom he exhorts to defend the party of the Optimates; and with an appeal to the judices in behalf of Sestius.

(From the argument of the Scholiast with Halm's notes, and from Halm's argument.)

The edition of this oration in the second edition of Orelli's Cicero is by Halm. The following are the MSS. to which he refers:—

A = Lemmata Scholiastae Bobiensis (Cicero, Schol. p. 291, &c.).

P = Codex Parisinus 7794 a me collatus.

G = Codex Gemblacensis, nunc Bruxellensis 5345 a Baitero collatus.

S = Codex Salisburgensis, nunc Monacensis Lat. 15734 a me collatus.

I have referred to this edition of Halm by the figure (2); and to his earlier and separate edition of this oration, Leipzig, 1845, by the figure (1). This separate edition contains a very copious commentary on the oration Pro Sestio, selected from the notes of P. Manutius, N. Abramus, Ferratius, and other scholars down to the present day; to which the editor has added many valuable notes of his own. This commentary is much more copious than any commentary can be made in an edition of

all Cicero's orations; and much more copious, I think, than is necessary for any purpose. Instead of collecting in his own notes all that is good in the notes of other commentators, Halm has printed them frequently entire; sometimes he has given the substance of them. It is very useful however to have an edition of a separate oration with a selection from the best notes of the commentators. Halm has followed this plan, as it appears, because he does not wish to have the credit of what others have done before him: he is particularly careful to assign to every commentator his due, and he has evidently a high sense of literary honesty, a thing which is by no means common either in England or Germany, or in any country where book-making is the fashion. His reproof of Klotz (c. 21, note) is an instance of his scrupulous exactness.

I have read all the notes in Halm's edition (1), and I have used some of the commentators to whom he refers. I have not acknowledged every reference which I have found ready to my hand, nor every remark that I have used; but I have often mentioned the name of a critic when I am more particularly indebted to him; and I also make this general acknowledgment here. If it will please any man to think so, he may suppose that there is nothing of my own in the notes to this oration; but it is not true.

If any one who has had patience to get through the four spurious orations will read this speech Pro Sestio, he may perhaps see that the Declamator has worked upon materials from Cicero, and he will see the great difference between a good original and a bad copy.

M. TULLII CICERONIS

PRO

P. SESTIO

ORATIO

AD JUDICES.

I. Si quis antea, judices, mirabatur quid esset, quod pro tantis opibus rei publicae tantaque dignitate imperii nequaquam satis multi cives forti et magno animo invenirentur, qui auderent se et salutem suam in discrimen offerre pro statu civitatis et pro communi libertate, ex hoc tempore miretur potius, si quem bonum et fortem civem viderit, quam si quem aut timidum aut sibi potius quam rei publicae consulentem. Nam ut omittatis de unius cujusque casu cogitando recordari, uno adspectu intueri potestis eos, qui cum senatu, cum bonis omnibus rem publicam afflictam excitarint et latrocinio domestico liberarint, maestos, sordidatos, reos, de capite, de fama, de civitate, de fortunis, de liberis dimicantes:

P. Sestio] P. G. 'P. Sextio' is the common title in the printed books.

1. *Si quis ... mirabatur*] Compare the beginning of the oration Pro S. Roscio Amerino: "Credo ego vos, judices, mirari," &c.

ex hoc tempore] Not only was P. Sestius prosecuted, but Milo was also 'sordidatus et reus,' and P. Lentulus was in danger (c. 69). 'Ex hoc tempore' means, as Halm says, 'ab hoc inde tempore;' and we cannot give it any other meaning, as some critics have done. Halm (2) has 'is ex hoc tempore,' Mommsen's correction, founded partly, I suppose, on the reading 'libertates,' P[1].

latrocinio domestico] He means all the trouble caused by Clodius and his partizans. Halm refers to c. 69, where Milo is called 'exstinctor domestici latrocinii,' and to the In Pison. c. 5, where the temple of Castor, which Clodius had taken possession of, is named 'castellum forensis latrocinii.'

de capite, ... de civitate,] This is a rhetorical form of expression. A man's 'caput' comprehends his 'civitas;' and the consequence of the 'media capitis deminutio' was the loss of 'civitas.' Accordingly when Cicero adds 'de civitate,' he says nothing new, but he says the same thing in another form.

dimicantes:] Ernesti altered this to 'dimicare,' which would make the form of expression agree with the infinitives 'volitare,' 'moliri,' 'timere.' It is easier to see the propriety of 'dimicantes,' which has the force of an adjective, than to give the reason for the change from the participle to the infinitive. Halm suggests that these infinitives express acts which are partly to be perceived by the eyes of the mind, while the participle 'dimicantes' and the words

eos autem, qui omnia divina et humana violarint, vexarint, perturbarint, everterint, non solum alacres laetosque volitare, sed etiam fortissimis atque optimis civibus periculum moliri, de se nihil timere. In quo quum multa sunt indigna, tum nihil minus est ferendum quam quod jam non per latrones suos, non per homines egestate et scelere perditos, sed per vos nobis, per optimos viros optimis civibus periculum inferre conantur, et quos lapidibus, quos ferro, quos facibus, quos vi, manu, copiis delere non potuerunt, hos vestra auctoritate, vestra religione, vestris sententiis se oppressuros arbitrantur. Ego autem, judices, quoniam qua voce mihi in agendis gratiis commemorandoque eorum qui de me optime meriti sunt beneficio esse utendum putabam, ea nunc uti cogor in eorum periculis depellendis, iis potissimum vox haec serviat, quorum opera et mihi et vobis et populo Romano restituta est.

II. Et quamquam a Q. Hortensio, clarissimo viro atque eloquentissimo, caussa est P. Sestii perorata, nihilque ab eo praetermissum est, quod aut pro re publica conquerendum fuit aut pro reo disputandum, tamen aggrediar ad dicendum, ne mea propugnatio ei potissimum defuisse videatur, per quem est perfectum ne ceteris civibus deesset. Atque ego sic statuo, judices, a me in hac caussa atque hoc extremo dicendi loco pietatis potius quam defensionis, querelae quam eloquentiae, doloris quam ingenii partes esse susceptas. Itaque si aut acrius egero aut liberius quam qui ante me dixerunt, peto a vobis ut tantum orationi meae concedatis, quantum et pio dolori et justae iracundiae concedendum putetis. Nam

with which it is connected present an object before the eyes. Halm compares In Vatin. c. 7: "duos praetextatos sedentes vides, te aediliciam praetextam . . . vendidisse."

In quo quum multa] Compare Pro S. Rosc. Am. c. 3: "Nonne quum multa indigna, tum vel hoc indignissimum est," &c.—'vestra religione:' because the judices gave their verdict on oath (Manutius).

quoniam qua voce] Halm added 'quoniam,' and it is wanted. Ernesti wrote 'quia qua' on the suggestion of Hotmann, and 'quia' is confirmed by the Codd. Bernn. Madvig suggested the omission of 'quia' and the making 'depellendis' end the sentence, and 'iis potissimum' begin another sentence. But 'iis potissimum' and what follows, looks like the conclusion of a sentence; and there is a want of the usual connexion in Cicero's sentences, if we begin abruptly with 'Iis potissimum.'—'beneficio:' his restoration from exile.

2. *perorata,*] "The case of Sestius has been completely handled;" and he further explains 'perorata' by adding 'nihilque ab eo praetermissum est.' Sometimes the 'peroratio' is the speech of the orator who spoke last (Orat. c. 38: "Quid ego de miserationibus loquar, quibus eo sum usus pluribus, quod etiamsi plures dicebamus, perorationem mihi tamen omnes relinquebant?" and Brutus, c. 33: "exstat ejus peroratio qui epilogus dicitur, qui tanto in honore pueris nobis erat ut eum etiam edisceremus," where he is speaking of C. Sulpicius Galba). In the Pro Cluentio, c. 70, he says "qui totam hanc caussam vetere instituto solus peroravi." See Pro Murena, c. 4, and the note, which will explain 'extremo dicendi loco.'

neque officio conjunctior dolor ullus esse potest quam hic meus susceptus ex hominis de me optime meriti periculo, neque iracundia magis ulla laudanda est quam ea quae me inflammat eorum scelere, qui cum omnibus meae salutis defensoribus bellum esse sibi gerendum judicaverunt. Sed quoniam singulis criminibus ceteri responderunt, dicam ego de omni statu P. Sestii, de genere vitae, de natura, de moribus, de incredibili amore in bonos, de studio conservandae salutis communis atque otii, contendamque, si modo id consequi potero, ut in hac confusa atque universa defensione nihil a me, quod ad vestram quaestionem, nihil quod ad reum, nihil quod ad rem publicam pertineat praetermissum esse videatur. Et quoniam in gravissimis temporibus civitatis atque in ruinis eversae atque afflictae rei publicae P. Sestii tribunatus est a fortuna ipsa collocatus, non aggrediar ad illa maxima atque amplissima prius quam docuero, quibus initiis ac fundamentis hae tantae summis in rebus laudes excitatae sint.

III. Parente P. Sestius natus est, judices, homine, ut plerique meministis, et sapiente et sancto et severo: qui quum tribunus pl. primus inter homines nobilissimos temporibus optimis factus

dolor ullus] P. G. have 'ullius.' 'Ullius' in place of 'cujusquam' would not do here, as Madvig remarks. But 'dolor ullus' is the proper expression to make a contrast with 'hic meus.' Cicero afterwards says 'iracundia magis ulla;' and so by looking carefully to the meaning we obtain indirect evidence that 'dolor ullus' is the true reading.

confusa atque universa] 'Universa' explains 'confusa' (complete, comprehensive); and both words are explained by what he has said. Orelli compares Tusc. i. 11: "Cuperem equidem utrumque, si posset: sed est difficile confundere," to bring them together. Halm cites De Or. ii. 41: "puncta argumentorum plerumque ut occulas, ne quis ea numerare possit, ut re distinguantur, verbis confusa esse videantur."

in ruinis eversae atque afflictae] "It would be more consistent with usage to write 'afflictae atque eversae;' but Bake, p. 53, acutely observes that Cicero in this passage deserted the usual order, because 'eversae' could be properly connected with 'ruinis' and 'afflictae' could not; for zeugma operates in such cases also (but it is rather the figure hysterologia). In the same way however he says, Pro S. Rosc. Amer. c. 12: 'ut omnes occisus perdiderit et afflixerit;' Ep. ad Att. iii. 10: 'perditum afflictumque.' All that has been said about these words by Wunder, p. 129, &c., and by Mueller in Jahn's Ann. vol. xiii. p. 45, and in Cur. sec. p. 13, &c. on the other side, must be read there. The same combination of words, but in an inverse order, is read Pro Quintio, c. 23, De Prov. Cons. c. 5, Pro Deiot. c. 12" (Halm). I have copied this note as a sample of the style of criticism which is now common. I do not know how much such notes are worth. Let every man set his own value on them.

hae tantae . . . laudes] 'Haec' P., Halm (2). Cicero says "from what beginnings and on what foundations this great reputation in the most important things has been raised up." Manutius compares Cicero, De Legg. ii. 27: "Exstrui autem vetat sepulcrum altius quam quod quinque diebus absolverint nec e lapide excitari plus (?) nec imponi quam quod," &c. Compare De Fin. iv. 7, cited by Halm, where the word is used in a figurative sense; and De Oratore ii. 41: "defixis . . . excitatis." There is a passage in Caesar, B. G. iii. 14, where he has 'turribus excitatis,' and it is a common expression, as Schneider in his edition of the Gallic War shows, by referring to B. G. v. 40, viii. 9; Livy 43. c. 18.

3. *tribunus pl. primus*] 'Primo loco renuntiatus;' returned first among those elected. "Nam quum propter dilationem comi-

esset, reliquis honoribus non tam uti voluit quam dignus videri. Eo auctore duxit honestissimi et spectatissimi viri C. Albini filiam, ex qua hic est puer et nupta jam filia. Duobus his gravissimae antiquitatis viris sic probatus fuit, ut utrique eorum et carus maxime et jucundus esset. Ademit Albino soceri nomen mors filiae, sed caritatem illius necessitudinis et benevolentiam non ademit. Hodie sic hunc diligit, ut vos facillime potestis ex hac vel assiduitate ejus vel sollicitudine et molestia judicare. Duxit uxorem patre vivo optimi et calamitosissimi viri filiam L. Scipionis. Clara in hoc P. Sestii pietas exstitit et omnibus grata, quod et Mas-

tiorum ter praetor primus centuriis cunctis renuntiatus sum" (De Imp. Cn. Pomp. c. 1. Vol. II.). Compare In Pison. c. 1; In Vatin. c. 5.

hic est puer] "Video hunc praetextatum ejus filium," c. 69. He was a youth who had not taken the 'toga virilis.' The dress of a youth who wore the 'praetexta' or the 'toga' with a purple border distinguished him from a man who wore the 'toga virilis' which had not such a border. In a passage of Livy, referred to by Halm (22. c. 57), the 'praetextati' are spoken of as being under seventeen: "delectu edicto juniores ab annis septendecim et quosdam praetextatos scribunt." Gellius (x. 28): "C. Tubero in historiarum primo scripsit Servium Tullium . . . pueros esse existimasse, qui minores essent annis XVII atque inde ab anno XVII . . . milites scripsisse." The age of 'pubertas,' on which depended the assumption of the 'toga virilis,' was not absolutely fixed: "nostri praeceptores puberem etiam eum esse putant qui habitu corporis pubertatem ostendit, hoc est, qui generare potest—sed diversae scholae auctores annis putant pubertatem aestimandam, id est, eum puberem esse existimant qui XIIII annos explevit" (Gaius, i. 196). The general rule appears to have been, that when a youth had attained the age of fourteen, he put on the 'toga virilis,' on the festival of the Liberalia (17th March), which followed next after he had attained his fourteenth year (Ovid, Fasti, iii. 771—788). But there are many examples of the 'toga virilis' being assumed at different ages, and many of them after the age of fifteen. (Savigny, System, &c. iii. § 109.)—'gravissimae antiquitatis viris:' men who were examples of the good old times. Comp. c. 62: "illam divinam gravitatem plenam antiquitatis."

Albino soceri nomen] Affinitas was dissolved by the death of the wife, as we see in the oration Pro Cluentio, cc. 12, 67; and in the De Oratore i. 7: "venisse eodem, socer ejus qui fuerat, Q. Mucius dicebatur." In the Pro Quintio (c. 6, note) Cicero seems to make 'affinitas' exist after the death of the wife, because there were children of the marriage: "Quamobrem Hotomannus ad h. l. statuit propterea Albinum desiisse socerum esse, quod Sestius novas nuptias inierit; Klotz autem confidenter, ut solet, edixit liberis vivis nomen quidem soceri intercidisse, sed affinitatem ipsam mansisse" (Halm). 'Ut solet' is well said. The edicta of Klotz are like the famous edictum of Scheller (Quum Senatui, c. 8).

P. Sestius and C. Albinus are mentioned by Cicero (Ad Fam. xiii. 8).

Duxit uxorem] 'Alteram duxit uxorem,' Schütz: 'Duxit iterum uxorem,' Mommsen. Something seems wanting. By 'patre vivo,' says Graevius, he means to say that Sestius married a second time also in his father's lifetime, and with his father's consent. Klotz says that Cicero says 'patre vivo' purposely, because the father had no longer the same influence on the choice of his son; and on the other hand he says above 'auctore eo.' There is nothing in this. Cicero remarks that his father was still alive; and that is all.—'L. Scipionis:' consul B.C. 83, a partizan of Marius. He was deserted by his army, which went over to Sulla. He afterwards retired to Massilia or to the Stoechades, as the Scholiast says, the five small islands off the south coast of France east of Marseille, and nearly opposite to Toulon. The three larger of them seem to be the Isles d'Hières, which were in the possession of the Massiliots, as well as the two smaller islands which are near the Isles d'Hières. The story of L. Scipio is in Plutarch, Sulla, c. 28; and in Appian, B. C. i. 80—86.

in hoc] Madvig remarks that 'hoc' is not in the ablative neuter, but the masculine: "pietas quam Sestius in Scipionis persona exhibuit."

siliam statim profectus est, ut socerum videre consolarique posset fluctibus rei publicae expulsum, in alienis terris jacentem, quem in majorum suorum vestigiis stare oportebat: et ad eum filiam ejus adduxit, ut ille insperato adspectu complexuque, si non omnem, at aliquam partem maeroris sui deponeret: et maximis officiis et illius aerumnam quoad vixit, et filiae solitudinem sustentavit. Possum multa dicere de liberalitate, de domesticis officiis, de tribunatu militari, de provinciali in eo magistratu abstinentia; sed mihi ante oculos obversatur rei publicae dignitas, quae me ad sese rapit, haec minora relinquere hortatur. Quaestor hic C. Antonii, collegae mei, judices, fuit sorte, sed societate consiliorum meus. Impedior nonnullius officii, ut ego interpretor, religione, quominus exponam, quam multa P. Sestius, quum esset cum collega meo, senserit, ad me detulerit, quanto ante providerit. Atque ego de Antonio nihil dico praeter unum: numquam illum illo summo timore ac periculo civitatis neque communem metum omnium nec propriam nonnullorum de ipso suspicionem aut infitiando tollere aut dissimulando sedare voluisse. In quo collega sustinendo atque moderando, si meam in illum indulgentiam conjunctam cum summa custodia rei publicae laudare vere solebatis, par prope laus P. Sestii esse debet, qui ita suum consulem obser-

maximis officiis] "'maximis praeterea assiduisque officiis,' Mommsen, Halm. 'Praeteritas esse sed iis et officiis,' P[1]. G., sed in P. 'praet. esse sed iis et,' m. 2, deletum est; 'officiis' edd." (Halm.) From this it appears that the text is uncertain.

de tribunatu militari,] Some 'tribuni militares' were appointed by the commander of the army, some were elected at Rome (Verr. Act. i. c. 10, note). See Livy, vii. 5. The words 'eo magistratu' signify that Sestius was 'tribunus mil. a populo,' an expression which often occurs in inscriptions (Orelli). Sallust, Jug. 63: "tribunatum militarem a populo petit (Marius) . . . deinde ab eo magistratu" (Halm).

abstinentia;] The 'tribuni militum' having a high place in the provinces and power, might do a great deal to vex the people: "Quae civitas est in Asia, quae non modo imperatoris aut legati, sed unius trib. mil. animos ac spiritus capere possit" (De Imp. Cn. Pomp. c. 22; and Verr. ii. 3. c. 58, 'tribunos suos').

Quaestor . . . C. Antonii,] "Some of the quaestors remained with the consuls in the city, some looked after the 'aerarium,' some went to the provinces" (Manutius). Here we learn that a quaestor was attached to each consul during his year of office. As to C. Antonius, Cicero's colleague, see the Introd. to the orations against Catiline.

nonnullius officii, . . . religione,] Cicero of course means that he is prevented by regard to his former relation towards Antonius; or as it is well expressed in the German version cited by Halm: "Die Rücksichten, welche ich dem Antonius als ehemaligen Amtsgenossen schuldig bin, verhindern mich." It is a strange mistake to suppose that the 'religio' of Sestius is meant, as Drumann, v. 480, understands it in his exposition of this passage. But Drumann often misunderstands his authors. C. Antonius was now in exile. Cicero's opinion of his treachery is expressed in the In Pison. c. 2.

consulem observavit] Drumann has observed that there is a double meaning here in the word, as in the Ad Fam. vii. 27: "Ego enim te in consulatu observaram;" and Ad Q. Fr. iii. 9: "Sed me ab eo ita observari scio ut ejus ista odia non sorbeam solum, sed etiam concoquam."

vavit ut et illi quaestor bonus et [vobis] omnibus optimus civis videretur.

IV. Idem, quum illa conjuratio ex latebris atque ex tenebris erupisset palamque armata volitaret, venit cum exercitu Capuam, quam urbem propter plurimas belli opportunitates ab illa impia et scelerata manu temptari suspicabamur. C. Mevulanum, tribunum militum Antonii, Capua praecipitem ejecit, hominem perditum et non obscure Pisauri et in aliis agri Gallici partibus in illa conjuratione versatum; idemque C. Marcellum, quum is non solum Capuam venisset, verum etiam se quasi armorum studio in maximam familiam conjecisset, exterminandum ex illa urbe curavit. Qua de caussa et tum conventus ille Capuae, qui propter salutem illius urbis consulatu conservatam meo me unum patronum adoptavit, huic apud me P. Sestio maximas gratias egit, et hoc tempore iidem homines nomine commutato coloni decurionesque, fortissimi atque optimi viri, beneficium P. Sestii testimonio declarant, periculum decreto suo deprecantur. Recita, quaeso, P. Sesti, quid decrerint Capuae decuriones, ut jam puerilis tua vox possit aliquid significare inimicis nostris, quidnam quum se corroborarit effectura esse videatur. DECURIONUM DECRETA. Non recito decretum officio aliquo expressum vicinitatis aut clientelae aut hospitii

quaestor bonus . . . optimus civis] "Sestius did his duty to his consul like a good quaestor and a good citizen too." Sestius reconciled his duty to his consul with his duty to his country. So says the orator; but it is rather difficult for an inferior to keep on terms with his superior, when he has to watch the treason of his superior. The quaestor was to his consul or praetor 'loco filii.' (Divin. c. 14, note, Vol. I.) Halm writes 'et omnibus optimus,' an emendation of Koechly: "'et omnibus' om. P[1]. G.; 'et vobis omnibus' P. sup. lin. m. 2 rec. et O." (Halm).

4. *cum exercitu Capuam,*] Hotmann remarks that Sallust (Cat. c. 30) says that Q. Pompeius praetor was sent to Capua to raise troops on this occasion. But Garatoni observes that Sestius might have been sent to Capua also. As to Capua see what Cicero says, Vol. II. De Lege Agrar. ii. 33: "quibus omnibus bellis Capua," &c.

temptari] P. G[1]., Halm (1). In (2) he writes 'tentari.' We may take either.

C. Mevulanum,] The name is generally written M. Aulanum in the printed books.

C. Marcellum,] In Cat. i. c. 8, note. The 'familiae gladiatorum' had been sent to Capua by an order of the Senate: "uti gladiatoriae familiae Capuam et in cetera municipia distribuerentur" (Sall. Cat. c. 30). Marcellus pretended that he wished to practise his exercises.

conventus ille] This means 'all the people of Capua,' or as Halm says, 'Die Einwohnerschaft von Capua;' for the place had no political existence in B.C. 63; but it was made a 'colonia' before this speech was delivered, and in B.C. 59. See De Lege Agraria, i. c. 6, and the note, Vol. II.; Verr. ii. 2. c. 13.—'decuriones' Vol. II. Index.

apud me] "Quum per legatos decretum patronatus mei mihi mitterent" (Orelli). Halm compares In Pison. c. 11: "quorum Capuae te," &c.

declarant, periculum] 'declarant, periculumque' the common reading. But P. G. omit 'que.' Halm has omitted it in (2); and it is better without it.

P. Sesti,] Hotmann suggested 'L. Sesti,' because Cicero in a letter to M. Rutilius (Ad Fam. xiii. 8) speaks of L. Sestius as the son or a son of P. Sestius by C. Albinus' daughter.

publici, aut ambitionis aut commendationis gratia: sed recito memoriam perfuncti periculi, praedicationem amplissimi beneficii, vocem officii praesentis, testimonium praeteriti temporis. Atque illis temporibus isdem, quum jam Capuam metu Sestius liberasset, urbem senatus atque omnes boni deprehensis atque oppressis domesticis hostibus me duce ex periculis maximis extraxissent, ego litteris P. Sestium Capua arcessivi cum illo exercitu quem tum secum habebat: quibus hic litteris lectis ad urbem confestim incredibili celeritate advolavit. Atque ut illius temporis atrocitatem recordari possitis, audite litteras et vestram memoriam ad timoris praeteriti cogitationem excitate. LITTERAE CICERONIS CONSULIS.

V. Hoc adventu P. Sestii tribunorum pl. novorum, qui tum extremis diebus consulatus mei res eas quas gesseram vexare cupiebant, reliquaeque conjurationis impetus et conatus sunt retardati.

ambitionis ... gratia:] It is strange that all the interpreters, as Halm observes, except Ferratius, could not see that this meant "not for the purposes of their own interest or recommending themselves to Sestius." At the time of the trial they could get nothing from Sestius.

vocem] 'vicem,' Codd.; 'vocem,' a friend of Lambinus; 'indicem,' Halm, from an emendation of Koechly ("qui aliquot egregias emendationes nobiscum per litteras communicavit," Halm). The emendation is ingenious, but Lambinus' is simpler, and perhaps true, and more appropriate. Orelli explains 'vicem' thus: "hoc decretum vicem explet officii, quod libenter si licuisset ei praestitissent, ut scil. ipsi praesentes eum laudarent atque ejus salutem deprecarentur." Klotz in one of his essays or reviews gives a German version to the same purport; and adds a long explanation, on which Halm says: "Quae praeterea ad hanc explicationem defendendam satis verbose scripsit, longum est hic repetere." Madvig remarks that 'vicem' cannot be used as an adverb here, for it is plain that the context requires a noun, nor can we say 'recitare aliquid vicem alicujus;' nor, he adds, can it be taken as a noun to express what is substituted in the place of present duty, for Cicero does not use 'vicem' before a genitive; and further, to call a 'decretum' by a name which indicates not what it is, but what it is in the place of, particularly when we have the words 'memoriam,' 'praedicationem,' 'testimonium,' is, as Madvig says, "prorsus incommodum." Lastly, he observes that those who adopt the explanation which he is confuting explain 'praesentis' as applying to place, though it is plain that it is the opposite of 'praeteriti temporis.'

This is very well said, but Klotz and Bake, as Halm observes, forgetting all this, devised those explanations by which all the force of this opposition of past and present is taken away: "sensit hanc difficultatem Klotz; quare, ne oppositio illa necessaria plane tolleretur, callide his verbis usus est: 'ein Zeugniss für die Vergangenheit, ebenso wie das Decretum vorher als an der Stelle gegenwärtiger Dienstleistung erscheint:' at cum vocabulum *gegenwärtig* ita nullo alio significatu nisi quem habet vox *anwesend* dictum sit, nemo sanus hac arte fallaci in fraudem se deduci patietur" (Halm). Halm explains 'vox' to mean the 'expression,' 'the organ;' and I think he has done wrong in replacing the 'vocem' of his edition (1845) by the 'indicem' of Koechly in his edition of 1856.

quibus hic litteris] Garatoni observes that the best authors, as Caesar and particularly Cicero, are accustomed to repeat words. But they did not repeat words simply in order to write them twice (see Pro Flacco, c. 35, note).

5. *tribunorum pl.*] L. Bestia and Q. Metellus Nepos (Schol.); and Klotz says the same, but without quoting his authority.—'M. Catone:' Cato was on his road to south Italy when he heard that Metellus was a candidate for the tribuneship, and as he thought that Metellus intended no good to the state, he returned to Rome, and was elected a tribune (Plutarch, Cato, c. 20).

Ac posteaquam est intellectum, M. Catone tribuno pl. fortissimo atque optimo civi rem publicam defendente, per se ipsum senatum populumque Romanum sine militum praesidio tueri facile majestatem suam dignitatemque eorum, qui salutem communem periculo suo defendissent, Sestius cum illo exercitu summa celeritate est Antonium consecutus. Hic ego quid praedicem, quibus hic rebus consulem ad rem gerendam excitarit? quos stimulos admoverit homini studioso fortasse victoriae, sed tamen nimium communem Martem belli casumque metuenti? Longum est ea dicere, sed hoc breve dicam: si M. Petreii non excellens animus et amor rei publicae, non praestans in re publica virtus, non summa auctoritas apud milites, non mirificus usus in re militari exstitisset, neque adjutor ei P. Sestius ad excitandum Antonium, cohortandum, accusandum, impellendum fuisset, datus illo in bello esset hiemi locus, neque umquam Catilina, quum e pruina Apennini atque e nivibus illis emersisset atque aestatem integram nactus Italiae calles et pastorum stabula praedari coepisset, sine multo

Antonium] Antonius had the command of the troops which were sent against Catilina in Etruria (Introd. to the orations against Catilina). Petreius was his legatus, and he fought the battle with the rebels.

communem Martem belli] 'Mars belli' is an expression which Cicero (De Or. iii. 42) compares with 'Ceres' used for 'fruges,' and 'Liber' for 'vinum.' The reading used to be 'communem Martem bellique casum.' Madvig says that the Romans always said 'communis Mars belli,' as in Livy v. 12: "nequidquam Sergio Martem communem belli fortunamque accusante." Halm remarks that in the passage in the Pro Milone, c. 21, and Phil. x. c. 10, and Livy 42. c. 14, or in the first two at least, the genitive may refer to 'Martem communem.' It is plain however that it does not in the example from Livy: "Martem communem esse et incertum eventum belli."

breve] 'breve' P., 'brevi' G. "It would be tedious to tell all that; but this which is short I will tell."

mirificus usus] "Homo militaris, quod amplius annos triginta tribunus aut praefectus aut legatus aut praetor cum magna gloria fuerat" (Sallust, Cat. c. 59). Drumann (v. p. 566), cited by Halm, concludes from this remark about the number of years which Petreius had served, that he cannot be Pompeius' legatus Petreius whom Caesar afterwards defeated in Spain, B.C. 49. A man who in B.C. 62 had served thirty years might possibly be still in command fourteen or fifteen years later. The Petreius who was beaten in Spain still continued to fight against Caesar, and he was in the battle of Thapsus, B.C. 46 (Bell. Afric. c. 18, &c.). After the defeat by Caesar, Juba and Petreius agreed to fight in order to kill one another, and Juba easily killed Petreius, who was the weaker; whether from age or otherwise the writer of the African war does not say (c. 94).—'accusandum:' 'reprove.' Halm compares cc. 57, 63.—'hiemi locus:' the war would have been protracted through the winter.

nactus] 'nanctus,' P[1]. G[1]. Wesenberg derives it from 'nancio' (Forcellini, Lex.). as 'sanctus,' he says, comes from 'sancio.' Schneider (Caesar, B. G. iv. 36) has a note in which he proves that the form 'nanctus' often occurs in the MSS., and the remark of Priscian shows that both forms were used: "Nanciscor etiam nactum facit absque *n*, ut Probo et Capro et Pollioni et Plinio placet" (Mai, De Re Publica, i. 10).

calles] See Pro Cluentio, c. 59. Garatoni refers to Livy 22. c. 14: "Nos hic pecorum modo per aestivos saltus deviosque calles exercitum ducimus conditi nubibus silvisque."—'stabula:' Halm (1) has 'stabula praeclara cepisset,' the reading, he says, of the best MSS., except that some of them have 'coepisset,' which is a common mistake. The critics not liking 'stabula praeclara cepisset,' began to take the reading of the inferior MSS., 'stabula praedari coepis-

sanguine ac sine totius Italiae vastitate miserrima concidisset. Hunc igitur animum attulit ad tribunatum P. Sestius, ut quaesturam Macedoniae relinquam et aliquando ad haec propiora veniam:—quamquam non est omittenda singularis illa integritas provincialis, cujus ego nuper in Macedonia vidi vestigia non pressa leviter ad exigui praedicationem temporis, sed fixa ad memoriam illius provinciae sempiternam:—verum haec ita praetereamus, ut tamen intuentes et respectantes relinquamus; ad tribunatum, qui ipse ad sese jam dudum vocat et quodammodo absorbet orationem meam, contento studio cursuque veniamus.

VI. De quo quidem tribunatu ita dictum est a Q. Hortensio, ut ejus oratio non defensionem modo videretur criminum continere, sed etiam memoria dignam juventuti rei publicae capessendae auctoritatem disciplinamque praescribere. Sed tamen, quoniam tribunatus totus P. Sestii nihil aliud nisi meum nomen caussamque sustinuit, necessario mihi de isdem rebus esse arbitror, si non subtilius disputandum, at certe dolentius deplorandum. Qua in oratione si asperius in quosdam homines invehi vellem, quis non concederet, ut eos quorum sceleris furore violatus essem vocis libertate perstringerem? Sed agam moderate et hujus potius tempori serviam quam dolori meo: si qui occulte a salute nostra

set,' till Madvig showed that it did not rest on secure MSS. evidence, had no sense, and was hardly Latin. However Halm has changed his mind, for (ed. 2) he has printed 'stabula praedari coepisset.' The critics have proposed many emendations of this passage, but the text seems at least as good as any. Writers after Cicero and the poets use 'praedari' with an accusative. I do not know if Cicero does elsewhere. The 'stabula' are the sheep stations on the Apennines. 'Stabulum' alone is used to signify any station or resting-place for travellers. Accordingly we find the name 'Stabula,' and 'Ad stabulum' in the Roman Itineraries. Halm refers to the 'stabularii' mentioned by Ulpian, Dig. 47. 5. 1: "In eos qui naves, cauponas, stabula exercent, si quid a quoque eorum, quos quasve ibi habebant, furtum factum esse dicetur, judicium datur:" and § 6: "namque viatorem sibi eligere caupo vel stabularius non videtur."

nuper in Macedonia] In his exile, when he went to Thessalonica.—'ita praetereamus," &c.: "but though we pass by all this, we shall still not leave it without looking on and turning our eyes back upon it."

absorbet] "As the wave in the agitation of the sea draws away a ship; and accordingly he goes on to speak of 'cursum,' which is also said of a ship" (Ernesti). Hor. C. ii. 7.

6. *dignam juventuti*] Madvig's emendation, founded on the MS. reading 'dignam uti.' There can be no doubt about the emendation being right. Halm refers to cc. 44, 56, in one of which there is 'praeclaram juventuti ad discendum;' and to a letter to Atticus (ii. 1).

Qua in oratione] "Cicero could not help feeling that in the speeches delivered shortly after his return, I mean the four speeches which have been declared spurious, he had shown himself rather too violent against his enemies and opponents, and his intention here is to obviate a false judgment about what he had said; though in this speech also he gives his resentment pretty free scope, by presenting to us the time of his humiliation nearly in the same way as in the earlier speeches" (Klotz). I print this note because it touches on the question of the four spurious speeches which Klotz admires. I leave others to say what the note is worth.

tempori serviam] 'Serviam' serves two nouns in the Latin, but I do not find an English word which will do the same. He

dissentiunt, lateant; si qui fecerunt aliquid aliquando atque iidem nunc tacent et quiescunt, nos quoque simus obliti; si qui se offerunt, insectantur, quoad ferri poterunt, perferemus; neque quemquam offendet oratio mea, nisi qui se ita obtulerit, ut in eum non invasisse, sed incucurrisse videamur. Sed necesse est, antequam de tribunatu P. Sestii dicere incipiam, me totum superioris anni rei publicae naufragium exponere, in quo colligendo ac reficienda salute communi omnia reperientur P. Sestii facta, dicta, consilia versata.

VII. Fuerat ille annus jam in re publica, judices, quum in magno motu et multorum timore intentus est arcus in me unum, sicut vulgo ignari rerum loquebantur, re quidem vera in universam rem publicam, traductione ad plebem furibundi hominis ac perditi, mihi irati, sed multo acrius otii et communis salutis inimici. Hunc vir clarissimus mihique multis repugnantibus amicissimus, Cn. Pompeius, omni cautione, foedere, exsecratione devinxerat nihil in tribunatu contra me esse facturum. Quod ille nefarius, ex omnium scelerum colluvione natus, parum se foedus violaturum arbitratus est, nisi ipsum cautorem alieni periculi suis propriis periculis terruisset. Hanc taetram immanemque beluam, vinctam

means "I will rather do what I can for his interests, than satisfy my own desire for vengeance."

si qui se offerunt,] "If any persons show themselves, follow to vex me." The asyndeton, says Halm, is not harsh. Certainly not. He has said "si qui occulte . . . lateant; si qui fecerunt . . . tacent et quiescunt." He has gone from those whom he tells to hide themselves to those who are silent and keep quiet. He then comes to those who show themselves, and more than that, follow on his heels. The addition of 'et' between 'offerunt' and 'insectantur' would spoil it.

naufragium] "Ceterum adnotandum est duplici significatu voc. *naufragium* usurpatum esse, primum vulgari, deinde sensu collectivo pro fragmentis navium, qua vi numerus pluralis usitatior est. Ex nostrae enim linguae ingenio dicendum erat: naufragium exponere, in cujus reliquiis s. fragmentis colligendis omnia P. Sesti facta versata sunt" (Halm).

7. *Fuerat ille . . . ac perditi,*] This passage stands as it has been corrected by Madvig. The year of which he is speaking, B.C. 59, is the year of Caesar's consulship, as it appears from what follows; in which year Clodius was adopted by a plebeian (Madvig).—'re quidem vera:' Halm (1) compares Verr. ii. 3. c. 13: "quum verbo judicium sit in edicto, re quidem vera tuorum comitum," &c.; ii. 3. c. 25, and other passages. But in (2) he has "re quidem in universam," &c.

omni cautione, foedere,] Ad Att. ii. 20: "Clodius adhuc mihi denuntiat periculum; Pompeius affirmat non esse periculum; addit etiam se prius occisum iri ab eo quam me violatum iri;" and Ad Att. ii. 22: "Cum hoc (Clodio) Pompeius egit et, ut ad me ipse referebat—alium enim habeo neminem testem—vehementer egit, quum diceret in summa se perfidiae et sceleris infamia fore, si mihi periculum crearetur ab eo, quem ipse armasset, quum plebeium fieri passus esset: sed fidem recepisse sibi et ipsum et Appium de me: hanc si ille non servaret, ita laturum ut omnes intelligerent nihil sibi antiquius nostra amicitia fuisse."

cautorem] C. F. Hermann, in his defence of the Latinity of the letters of Cicero to Brutus and of Brutus to Cicero (Götting. 1844), remarks that this word occurs only here and in a like passage in Plautus (Capt. ii. 2. 7), perhaps not even in the Jurisconsults (Halm).

vinctam auspiciis,] It is not plain what

auspiciis, alligatam more majorum, constrictam legum sacratarum catenis, solvit subito lege curiata consul, vel, ut ego arbitror, exoratus, vel, ut non nemo putabat, iratus, ignarus quidem certe et imprudens impendentium tantorum scelerum et malorum. Qui tribunus plebis felix in evertenda re publica fuit, nullis suis nervis: qui enim in ejusmodi vita nervi esse potuerunt hominis fraternis flagitiis, sororiis stupris, omni inaudita libidine infamis?—sed fuit profecto quaedam illa rei publicae fortuna fatalis, ut ille caecus atque amens tribunus pl. nancisceretur—quid dicam?—consules? hocine ut ego nomine appellem eversores hujus imperii, proditores vestrae dignitatis, hostes bonorum omnium? qui ad delendum senatum, affligendum equestrem ordinem, exstinguenda omnia jura atque instituta majorum se illis fascibus ceterisque insignibus summi honoris atque imperii ornatos esse arbitrabantur. Quorum, per deos immortales! si nondum scelera vulneraque inusta rei publicae vultis recordari, vultum atque incessum animis intuemini.

he means when he speaks of the consul (Caesar) by a Lex Curiata letting loose a monster 'which was bound by the auspices, tied fast by the custom of our ancestors, bound by the chains of the leges sacratae.' Generally he means to say that this monster was chained by old usage and law, and was let loose by being adopted into a plebeian family, which qualified him to be elected a tribunus pl. I do not think that either Manutius or Ferratius has explained this passage correctly. 'Alligatam more majorum' is explained by Manutius thus: No Lex forbade a patrician being made a plebeian, but very few patricians were made plebeians; and accordingly the 'mos majorum' opposed Clodius' adoption. But the 'mos majorum' is something positive; a rule that must be observed.

legum sacratarum] Festus s. v. p 318, Mueller. "Sacratae leges sunt quibus sanctum est, qui quid adversus eas fecerit, sacer alicui deorum sit, ut familia pecuniaque." In iis hoc sancitum erat, ne cui patrum capere tribunatum liceret (Halm).

consul,] This is Caesar. He did not do this in his capacity of consul, but as Pontifex Maximus, for the Comitia Curiata were under the direction of the Pontifices (Gellius, v. 19). 'Subito' is explained by a passage in Suetonius. Compare De Domo, c. 16, and the note on 'ad quosdam viros.' 'Lege curiata' is an emendation of Turnebus. P. has 'legum curiata,' but *ta* expunged; G. has 'legum.'

iratus,] 'Iratus' A., 'miratus' P. G., 'mihi iratus' Halm (1); but in (2) he omits 'mihi,' perhaps better. 'Miratus' perhaps means 'mihi iratus.' Still Cicero seems to allude to Caesar having taken offence at what he said at the trial of C. Antonius (De Domo, c. 16).

fraternis flagitiis,] The critics do not agree which brother Cicero meant. The Scholiast knew. It was Appius. We should not care to know if we could. Cicero may have meant both or either. He cared nothing about the truth of what he said.

sororiis stupris,] This is a foul charge often repeated by Cicero, who says (Ad Fam. i. 9): "primum ille fur muliebrium religionum, qui non pluris fecerat Bonam Deam quam tres sorores." The eldest Clodia married Q. Marcius Rex, consul B.C. 68. The second Clodia was the Quadrantaria and βοῶπις of Cicero (Pro Caelio, c. 26). She married Q. Metellus Celer, consul B.C. 60. The third Clodia was the wife of L. Lucullus, consul B.C. 74. See Index, 'stuprum.'

infamis?] Halm (1), who quotes Wesenberg's argument in favour of 'infamis' and against the MSS. reading 'insani.' He adds that the old editions have 'infamis,' "sed etiam libro Nuernbergensi, ubi est 'in fanis.'" But in (2) he has 'insani' with this remark '*insani* P. corr. ex *insane*.' Koechly conjectured 'exhausti.' Hermann, cited by Halm, asks what objection there is to saying 'flagitiis insanum.'

equestrem ordinem,] He alludes to L. Lamia, c. 12.

Facilius eorum facta occurrent mentibus vestris, si ora ipsa oculis proposueritis.

VIII. Alter unguentis affluens, calamistrata coma, despiciens conscios stuprorum ac veteres vexatores aetatulae suae, puteali et feneratorum gregibus inflatus, a quibus compulsus olim, ne in Scyllaeo illo aeris alieni tamquam in freto ad columnam adhaeresceret, in tribunatus portum perfugerat, contemnebat equites Romanos, minitabatur senatui, venditabat se operis, atque ab iis se ereptum ne de ambitu caussam diceret praedicabat, ab isdemque se etiam invito senatu provinciam sperare dicebat; eamque nisi adeptus esset, se incolumem nullo modo fore arbitrabatur. Alter,

8. *Alter unguentis*] Gabinius. His curls are spoken of in the Quum Senatui, c. 6, 'cincinnatus ganeo,' and c. 7, note on 'calamistri.'

conscios stuprorum] Drumann, as Halm remarks, has mistaken the meaning of this (iii. p. 61, v. p. 668). The Declamator (Quum Senatui, c. 4) understood it: "Quorum alter a me Catilinam amatorem suum multis audientibus . . . reposcebat."

puteali . . . inflatus,] 'Inflatus' is explained as equivalent to 'iratus.' Halm cites another example from Livy 24. c. 32; but it seems doubtful if that is the meaning of 'inflati' in that passage. The words 'puteali' and 'gregibus' cannot be the ablative, for if they were, we must take 'puteali inflatus' to be an expression of the same form as 'spe inflatus' and the like; and there is no sense in saying that he 'inflated with or by the Puteal' and so forth. Accordingly it is concluded that 'puteali' and 'gregibus' are datives; and it is said to mean 'puffed up against,' 'arrogant towards,' and so on. The passage of Horace (i. Sat. 1. v. 20), where we have

" —— quin illis Jupiter ambas
Iratus buccas inflet "

is quoted by Klotz. Still 'alicui inflatus' is not quite the same. On the 'puteal Libonis' (Hor. Ep. i. 19, 8) Porphyrius says: "Puteal autem Libonis sedes praetoris fuit prope arcum Fabianum, dictumque quod a Libone illic primum tribunal et subsellia locata sint." The Schol. on Persius, Sat. iv. 49, says: "Foeneratores ad puteal Scribonis Licinii (Scribonii Libonis), quod est in porticu Julia ad Fabianum arcum, consistere solebant." Macleane's Hor. S. ii. 6. 35.

Scyllaeo] The Scyllaeum is a high rock in the form of a peninsula, not far from Caenys on the strait between Italy and Sicily. Caenys is the point of Italy opposite to Pelorus in Sicily. Between Caenys and Rhegium is the Columna Regina or Posidonium (Strab. p. 257). We see now what Cicero means. He says 'lest in that Scyllaeum of debt, as if he were in the straits, he should stick to the column.' The column is supposed to be the Maenia: "nam puteal vocabatur locus in vicinia fori, ubi erat columna Maenia apud quam debitores a creditoribus proscribebantur" (Schol. Vatic.). The confusion between the strait and the Columna Regina, for it is rather confusion than comparison, and the debt and the Maenia is not in good taste. Gabinius protected himself against his creditors by getting the tribunate, for his creditors could not trouble him during his year of office. Compare Quum Senatui, c. 5.

in freto] 'in fretu' P[1]., Halm (2). Both forms, it seems, were used. See Vol. I. Verr. ii. 5. c. 66, and the note on 'fretu.'

de ambitu] "Gabinius was prosecuted for Ambitus after his return from his province, as appears from Cicero, Ad Q. Fr. iii. 3, and Ad Att. iv. 16" (Garatoni). Cicero says in the letter to his brother (B.C. 54): "Gabinium de ambitu reum fecit P. Sulla." It seems that Gabinius was prosecuted in B.C. 54 both for Majestas, Repetundae, and Ambitus. See Quum Populo, c. 4, note on 'gratiae caussa.'

invito senatu] Ferratius observes that no man was elected consul without having a province first assigned to him, and this was the practice since the time of the Sempronia Lex of C. Gracchus. But Gabinius with the assistance of Clodius got the province of Syria against the will of the Senate. As to his not being 'incolumis,' unless he got the 'provincia,' which he wanted, it is plain, as Halm observes, that the orator means that this was the only way of repairing his ruined fortunes.

Alter,] Piso, who wore a beard like the

o dii boni! quam taeter incedebat! quam truculentus! quam terribilis adspectu!—unum aliquem te ex barbatis illis, exemplum imperii veteris, imaginem antiquitatis, columen rei publicae diceres intueri:—vestitus aspere nostra hac purpura plebeia ac paene fusca; capillo ita horrido, ut Capua, in qua ipse tum imaginis ornandae caussa duumviratum gerebat, Seplasiam sublaturus videretur. Nam quid ego de supercilio dicam, quod tum hominibus non supercilium, sed pignus rei publicae videbatur? Tanta erat gravitas in oculo, tanta contractio frontis, ut illo supercilio annus ille niti tamquam vade videretur. Erat hic omnium sermo: "Est tamen rei publicae magnum firmumque subsidium; habeo quem opponam labi illi atque coeno; vultu mediusfidius collegae sui libidinem levitatemque franget; habebit senatus in hunc annum quem sequatur; non deerit auctor et dux bonis." Mihi denique homines praecipue gratulabantur, quod habiturus essem contra tribunum plebis furiosum et audacem quum amicum et affinem, tum etiam fortem et gravem consulem.

IX. Atque eorum alter fefellit neminem. Quis enim clavum tanti imperii tenere et gubernacula rei publicae tractare in maximo cursu ac fluctibus posse arbitraretur hominem emersum subito ex diuturnis tenebris lustrorum ac stuprorum, vino, ganeis, lenociniis adulteriisque confectum? quum is praeter spem in altissimo gradu alienis opibus positus esset, qui non modo tempestatem impendentem intueri temulentus, sed ne lucem quidem insolitam adspicere posset. Alter multos plane in omnes partes fefellit. Erat enim hominum opinioni nobilitate ipsa blanda conciliatricula commendatus. Omnes boni semper nobilitati favemus, et quia utile est rei publicae nobiles homines esse dignos majoribus suis, et quia valet apud nos clarorum hominum et bene de re publica meritorum

men of old. Compare Pro Caelio, c. 14.—'purpura plebeia:' such as the Plebs wore, or the common kind (nostra). There were dyes of various qualities. Cato "observing that a purple dress of a deep bright was much in fashion, he himself wore the dark" (Plutarch, Cato, c. 6).

capillo ita horrido,] The fellow did not comb his hair or grease it, and he was a likely man therefore to have put down all the dealers in oils and perfumes who had their shops in the Seplasia, one of the streets of Capua. Compare De Agraria Lege ii. 5: "vestitu obsoletiore," &c.

duumviratum] Piso and Cn. Pompeius were Duumviri in the new colony of Capua. As to the honour to his genealogical tree from this office at Capua, it may be a piece of irony of the orator.

niti tamquam vade videretur] 'niti tamquam videretur' P. G.; 'vade' is added by Madvig from Valerius Probus (apud Putsch. col. 1461 and 1475), who quotes from Cicero 'tamquam vade,' and 'vultu tamquam vade.'—'mediusfidius:' Vol. II. Index.

affinem,] See Quum Senatui, c. 7.

9. *alienis opibus*] By the aid of Cn. Pompeius (Manutius), as Klotz correctly translates it.—'nobilitate ipsa:' In Pison. c. 1: "obrepsisti ad honores commendatione fumosarum imaginum, quarum simile habes nihil praeter colorem."

memoria etiam mortuorum. Quia tristem semper, quia taciturnum, quia subhorridum atque incultum videbant, et quod erat eo nomine ut ingenerata familiae frugalitas videretur, favebant, gaudebant, et ad integritatem majorum spe sua hominem vocabant materni generis obliti. Ego autem—vere dicam, judices,—tantum esse in homine sceleris, audaciae, crudelitatis, quantum ipse cum re publica sensi, numquam putavi. Nequam esse hominem et levem et falsa opinione errore hominum ab adolescentia commendatum sciebam. Etenim animus ejus vultu, flagitia parietibus tegebantur; sed haec ob-

eo nomine . . . frugalitas] "Because he had a name (Frugi) which might be considered as evidence of the innate 'frugalitas' of the 'familia.'" Manutius observes that Cicero is alluding to the name Frugi. Drumann (Geschichte Roms, ii. 62) says that neither was this L. Piso Caesoninus, one of the consuls of B.C. 58, nor were his descendants named Frugi; nor was any Frugi called Caesoninus, for these were the two names by which these Calpurnii were distinguished. Asconius is mistaken when he calls this Piso a Frugi: "no coin, no inscription, and no writer speaks for him, not even Cicero himself, who according to his practice would have tired us with the repetition of the name in drawing the portrait of his opponent." He adds, 'familia' here means family; and Cicero intends to say: "people were deceived in him, they supposed in all the Calpurnii and consequently in him those virtues were innate which the mention of his 'familia' suggested. This interpretation is confirmed by Cicero's style of addressing him: 'O familiae non dicam Calpurniae, sed Calventiae' (In Pison. c. 23), and in his abusive speeches he never names him Calpurnius but Calventius, and often alludes to his Gallic descent." Piso's father married Calventius' daughter (Quum Senatui, c. 6, note, and c. 7). Halm supposes that Cicero may mean this: As his name was Piso, the 'frugalitas' of the family of the Pisones might have been supposed to belong to him also, since the most illustrious of the Pisones were both Frugi and were called Frugi. In this explanation 'nomen' means the cognomen of the 'familia,' as in Verr. iv. 25: "nimirum ut hic (Verres) nomen suum comprobavit, sic ille (L. Piso Frugi) cognomen" (Halm).—'frugalitas:' see Vol. I. Index.

ad integritatem majorum] They hoped that he would be as honest as his ancestors. Halm compares Cicero, De Sen. c. 19: "sensi ego in optimo filio meo, tu in expectatis ad amplissimam dignitatem fratribus tuis, Scipio."—'materni generis:' his Gallic descent on his mother's side (Quum Senatui, c. 6).

in homine] "Nam de Pisone uno, neutiquam de universo hominum genere intelligo. Sic De Rep. § 1; de Orat. i. 7. Aliis locis Ciceronis tamen *in hoc homine* ut Verr. ii. 1. § 10 (Muell.). Addo ex hac ipsa oratione c. 24 'furori hominis;' c. 41, 'animi hominis.' v. Kritz ad Sal. Jug. c. 70. p. 377; Fab. ad Liv. 24. c. 4; Klotz ad Tusc. D. 1. § 49. p. 59" (Halm). There are many notes in Halm's edition which are like this. It would be rather difficult to make the mistake which Mueller tells us not to make. 'Homo' is often used emphatically (Pro Quintio, c. 4, note, Vol. II.).

numquam putavi.] "Ich hätte nie geglaubt."—I could never have believed it, is Halm's German version; who observes that the Latini properly use the indicative. The indicative is the right mood, because it says directly what is meant, and the other form does not; but we can say, "I never thought there was so much villainy in the man, as I and the Res Publica found out by experience."

falsa opinione errore] A comma is usually placed after 'opinione;' but the little mark does not help us to the sense. There have been various opinions about the meaning of the passage. The true explanation is that of a certain learned man, name untold, who explained it thus to Halm: "I knew that the man had been recommended by a false opinion of him through men's erroneous judgment of his youth," i. e. "propterea quod homines adolescentia ejus in fraudem induxerat." The way in which he spent his youth, or the apparent character of his youth misled people; "for," he continues, "his mind was concealed in his face, his scandalous acts by the walls of his house."

structio nec diuturna est, neque obducta ita ut curiosis oculis perspici non possit.

X. Videbamus genus vitae, desidiam, inertiam; inclusas ejus libidines, qui paullo propius accesserant, intuebantur: denique etiam sermonis ansas dabat, quibus reconditos ejus sensus tenere possemus. Laudabat homo doctus philosophos nescio quos, neque eorum tamen nomina poterat dicere: sed tamen eos laudabat maxime, qui dicuntur praeter ceteros esse auctores et laudatores voluptatis: cujus et quo tempore et quo modo non quaerebat; verbum ipsum omnibus animi et corporis *partibus* devorabat; eosdemque praeclare dicere aiebat, sapientes omnia sua caussa

10. *sermonis ansas*] "He gave handles by his talk, so that we could lay hold of his inmost thoughts." Many of the critics think that the expression is faulty, and they have proposed various alterations.

philosophos nescio quos,] The Epicureans. See De Amicit. c. 13.—'cujus:' he did not inquire what 'pleasure,' but he merely laid hold of the word, without knowing or caring what pleasure Epicurus meant. The pleasure of Epicurus was freedom from all painful sensations.

partibus] The word 'partibus' is not in the MSS. It was added by Orelli. Some word has been lost after 'corporis.' Klotz tells us to compare De Harusp. c. 27: "quis minus umquam pepercit . . . omnibus corporis sui partibus;" to which Halm adds the passage in the Quum Senatui, c. 6: "eos qui disputent . . . in omni parte corporis," &c.

omnia sua caussa] Manutius cites Cicero, Ad Fam. vii. 12: "Indicavit mihi Pansa meus Epicureum te esse factum—Sed quonam modo jus civile defendes, quum omnia tua caussa facias, non civium?" So we still teach and practise. When a man does any thing, his motive, that which moves him, is in himself, though his motive may require an external thing to rouse it to activity; and the act which may and often must have for its object things external to the doer, has its full effect and completion only in the doer's consciousness of the thing when it is done. Thus every act is reflected on the agent in some degree, both bad and good acts. A man does those acts which are called bad generally in the view of a direct profit resulting to himself, or that which he considers to be a profit. He does those which we call good not in the view of direct profit to himself; and herein consists the difference between pure selfishness and benevolence, for benevolence is often apparently a simple movement to do good to others; but though it seems to be simple, and is so in immediate act, we are so constituted that we feel pleasure from the benevolent act, and we may repeat it because it is pleasant. In a sense then both the wise and the foolish, the good and the bad, do every thing with a view to themselves; but the wise and good are not consciously at least moved solely by self-regard. Even the highest object proposed for the practice of Virtue in this life is reward, repayment for what has been well done and well laid out.

"A wise man should not meddle with public affairs:" a doctrine which all fools and knaves will certainly assent to, for they will then have it their own way. A man may keep clear of public affairs, because he sets a high value on his tranquillity and on preserving his integrity; but he keeps his tranquillity and integrity by neglecting to do his duty as a citizen. If a man knows that he has neither ability to do good, nor honesty enough to resist temptation, he is wise for not trying to do what he cannot, and for not putting himself in the way of temptation which will overpower him. But few men keep aloof from public matters for these reasons; and in a country where a political career is open, most men rush eagerly into it with no direct motive, except the view of their own advantage. The few who honestly labour for the common good suffer for it in the end, as Socrates (Apologia, c. 19) thought, and perhaps he knew: "There is no man who will ever escape, if he honestly opposes either you or any other popular body, and if he tries to prevent many unjust things and things contrary to law from being done in the state; but it is absolutely necessary for him whose purpose is to fight truly in defence of the right, if he would save himself even for a time, to keep in a private

facere; rem publicam capessere hominem bene sanum non oportere; nihil esse praestabilius otiosa vita, plena et conferta voluptatibus: eos autem, qui dicerent dignitati esse serviendum, rei publicae consulendum, officii rationem in omni vita, non commodi esse ducendam, adeunda pro patria pericula, vulnera excipienda, mortem oppetendam, vaticinari atque insanire dicebat. Ex his assiduis ejus quotidianisque sermonibus et quod videbam, quibuscum hominibus in interiore parte aedium viveret, et quod ita domus ipsa fumabat ut multa ejus sermonis indicia redolerent, statuebam sic, boni nihil ab illis nugis exspectandum, mali quidem certe nihil pertimescendum. Sed ita est, judices, ut, si gladium parvo puero aut si imbecillo seni aut debili dederis, ipse impetu suo nemini noceat, sin ad nudum vel fortissimi viri corpus accesserit, possit acie ipsa et ferri viribus vulnerare; quum hominibus enervatis atque exsanguibus consulatus tamquam gladius esset datus, qui per se pungere neminem umquam potuissent, hi summi imperii nomine armati tantam rem publicam contrucidarunt. Foedus fecerunt cum tribuno plebis palam, ut ab eo provincias acciperent quas ipsi vellent: exercitum et pecuniam quantam vellent ea lege, si ipsi prius tribuno plebis afflictam et constrictam rem publicam tradidissent: id autem foedus meo sanguine ictum sanciri posse dicebant. Qua re patefacta—neque enim dissimulari tantum scelus poterat nec latere,—promulgantur uno eodemque tempore rogationes ab eodem tribuno de mea pernicie et de provinciis consulum nominatim.

XI. Hic tum senatus sollicitus, vos, equites Romani, excitati, Italia cuncta permota, omnes denique omnium generum atque

station and not meddle with public matters." He must leave the care of the state to the rogues; a most uncomfortable conclusion, enough to make an honest man bestir himself, even if it cost him dear.

eos autem.] Any or all of those who were not Epicurei.—'vaticinari' means here the same as 'errare.' "Sed ego fortasse vaticinor, et haec omnia meliores habebunt exitus" (Ad Fam. ii. 16; Manut.).

ipse impetu] "Of himself, by his own effort, he could harm nobody," but if he approached an unarmed man, one of the bravest, he might inflict a wound by the very circumstance of his carrying a sharp weapon.—'vulnerare; quum:' 'vulnerari cum, P. G[1].; vulnerare; ita cum,' Halm (1); 'vulnerare: sic cum,' Halm (2). I do not think that the sentence requires either 'ita' or 'sic.'—'hi summi:' 'ii summi,' Halm.

tribuno plebis] P. Clodius. Compare In Pisonem, c. 16.—'nominatim:' this word, as Manutius remarks, refers only to the words 'de provinciis consulum,' for the first Lex of Clodius did not name Cicero, but was directed against all those who had put Roman citizens to death without a trial. See the Introduction to the four spurious orations.

11. *vos, equites*] He is addressing those judices who were Equites.—'summae rei publicae:' Halm warns us against taking 'rei publicae' for the genitive. 'Summa res publica' is a common form (Pro Sex. Roscio, c. 51, Vol. II.; In Cat. i. 6, "ad summam rem publicam pertinent;" and Pro Sulla, c. 24).

ordinum cives summae rei publicae a consulibus atque a summo imperio petendum esse auxilium arbitrabantur, quum illi soli essent praeter furiosum illum tribunum duo rei publicae turbines, qui non modo praecipitanti patriae non subvenirent, sed eam nimium tarde concidere maererent. Flagitabatur ab iis quotidie quum querelis bonorum omnium, tum etiam precibus senatus, ut meam caussam susciperent, agerent, aliquid denique ad senatum referrent: ii non modo negando, sed etiam irridendo amplissimum quemque illius ordinis insequebantur. Hic subito quum incredibilis in Capitolium multitudo ex tota urbe cunctaque Italia convenisset, vestem mutandam omnes meque etiam omni ratione, privato consilio, quoniam publicis ducibus res publica careret, defendendum putarunt. Erat eodem tempore senatus in aede Concordiae, quod ipsum templum repraesentabat memoriam consulatus mei, quum flens universus ordo cincinnatum consulem orabat: nam alter ille horridus et severus consulto se domi continebat. Qua tum superbia caenum illud ac labes amplissimi ordinis preces et clarissimorum civium lacrimas repudiavit! me ipsum ut contempsit helluo patriae! nam quid ego patrimonii dicam, quod ille, quum quasi quaestum faceret, amisit?

duo . . . turbines,] De Domo, c. 53: "tu procella patriae, turbo ac tempestas pacis atque otii."

referrent . . . non] P. G[1].; 'referrent: ii non,' Madvig, Halm (1); 'referrent: non,' Halm (2). It is hard to see how the two parts of this sentence hang together if the pronoun 'ii' or 'hi' is omitted.—'in Capitolium:' comp. Quum Senatui, c. 5; and Dion Cassius, 38. c. 16, who says that "the 'equites' met in the Capitolium and sent men of their body and two senators to the consuls and the senate on behalf of Cicero—and Ninnius advised the people to change their dress, as on the occasion of some calamity, and many of the senators also did the same, and they did not desist before the consuls checked them by an edict."

meque etiam] Madvig proposes to write 'meque jam;' and Koechly, 'meque omni ratione, etiam privato consilio.'

Concordiae,] The Senate had met here to deliberate on the case of the conspirators, who had been seized; which fact explains the words which follow. (Introduction to the orations against Catilina.)

quasi quaestum] "Salse simul et acerbe. Mirum enim, qui quasi meretrix divulgato corpore quaestum faciat, eum patrimonium amittere. Notat impudentiam simul et nequitiam Gabinii" (Manutius). In a fragment of Cato, quoted by Gellius (ix. 12), there is: "sed nisi qui palam corpore pecuniam quaereret aut se lenoni locavisset." There is no 'corpore' in this passage of Cicero: "quod ille totum quamvis quaestum faceret" Halm (2). I do not believe that the text here is right; nor that Halm's (2) is the genuine text. Halm compares a passage of Aeschines contra Tim. § 94: *καίτοι λογογράφος γέ τίς φησιν . . . ἐναντία με λέγειν ἐμαυτῷ· οὐ γὰρ δὴ δοκεῖ εἶναι αὐτῷ δυνατὸν τὸν αὐτὸν ἄνθρωπον πεπορνεῦσθαι καὶ τὰ πατρῷα κατεδηδοκέναι . . . Ἔτι δὲ τοὺς καταισχύνοντας αὑτοὺς μισθούς φησι πράττεσθαι τοῦ πράγματος· ἀποθαυμάζων οὖν περιέρχεται καὶ τερατευόμενος κατὰ τὴν ἀγοράν, εἰ ὁ αὐτὸς πεπόρνευταί τε καὶ τὰ πατρῷα κατεδήδοκεν.*

Halm suggests that Gabinius repaired his fortunes by keeping a brothel (lenocinio domestico), and he refers to the passage in the Quum Senatui c. 5: "egestatem et luxuriam lenocinio domestico sustentavit;" but the Declamator is not very good authority. Gabinius hardly turned his own house into a brothel; but as the Romans employed their slaves in all kinds of business, and all that a slave acquired belonged to his master, it is likely enough that many of them put their slaves into brothels to manage them on account of their masters; and so Gabinius might be a 'leno' by deputy; as people

Venistis ad senatum, vos, inquam, equites Romani, et omnes boni veste mutata vosque pro meo capite ad pedes lenonis impurissimi projecistis. Tum vestris precibus ab latrone illo repudiatis, vir incredibili fide, magnitudine animi, constantia, L. Ninnius, ad senatum de re publica rettulit senatusque frequens vestem pro mea salute mutandam censuit.

XII. O diem illum, judices, funestum senatui bonisque omnibus, rei publicae luctuosum, mihi ad domesticum maerorem gravem, ad posteritatis memoriam gloriosum! Quid enim quisquam potest ex omni memoria sumere illustrius quam pro uno cive et bonos omnes privato consensu et universum senatum publico consilio mutasse vestem? quae quidem tum mutatio non deprecationis caussa est facta, sed luctus. Quem enim deprecarere, quum omnes essent sordidati quumque hoc satis esset signi esse improbum, qui mutata veste non esset? Hac mutatione vestis facta, tanto in luctu civitatis, omitto quid ille tribunus, omnium rerum divinarum humanarumque praedo, fecerit, qui adesse nobilissimos adolescentes, honestissimos equites Romanos, deprecatores salutis meae jusserit eosque operarum suarum gladiis et lapidibus objecerit: de consulibus loquor, quorum fide res publica niti debuit. Exanimatus evolat ex senatu, non minus perturbato animo atque vultu quam si annis ante paucis in creditorum conventum incidisset; advocat contionem, habet orationem talem consul qualem numquam Catilina

now let their houses to those who carry on this business and play the Gabinius in secret.

Venistis ad senatum . . . vir incredibili] Halm (2).

L. Ninnius,] See the Introduction to the Quum Senatui, &c.; and the Quum Senatui, c. 2, note; and Ad Att. iii. 23. Dion, quoted above, says (38. c. 16) that Ninnius advised (παρῄνεσε) the people to put on the dress of mourning. Manutius makes Dion say that Ninnius persuaded them (persuasit). See the Quum Populo, c. 3, about the twenty thousand. In the next chapter he says "bonos omnes . . . mutasse vestem," which Ferratius supposes to be said 'oratorie,' that is, falsely. He also quotes the passage from Plutarch, Cicero (c. 31), and from the Quum Populo, to show that it was the Equites, not the Plebs who changed their dress. But Drumann (ii. p. 244) denies that Plutarch proves what Ferratius says, for after speaking of the 'twenty thousand' Plutarch adds: "when the Senate had met in order to pass a vote that the people should change their dress as in a public calamity;" "from which," says Halm, "it most clearly appears that those twenty thousand whom Plutarch named before were 'equites.'" It does not appear at all.

12. *ille tribunus . . . praedo,*] Clodius. 'Praedo' is perhaps an allusion to the sale of the temple of Pessinus to Brogitarus (c. 25) (Halm).

adesse . . . jusserit] 'Summoned them.' The story is told in the De Domo, c. 21: "Quum eos qui conventu," &c.; and in Dion Cassius, 38. c. 16, who says that Gabinius brought a charge against Hortensius and Curio, two senators, because they had joined the 'equites' in their meeting, and undertaken to act as their spokesman; and Clodius having brought them before the popular assembly had them well beaten for undertaking this business by some men who were hired for the purpose. Compare In Pison. c. 10. This is Halm's explanation: some of the commentators have misunderstood the passage.

Exanimatus] Gabinius; but it is rather abrupt.

victor habuisset: "errare homines, si etiam tum senatum aliquid in re publica posse arbitrarentur; equites vero Romanos daturos illius diei poenas, quo me consule cum gladiis in clivo Capitolino fuissent; venisse tempus iis qui in timore fuissent,—conjuratos videlicet dicebat,—ulciscendi se." Si dixisset haec solum, omni supplicio esset dignus; nam oratio ipsa consulis perniciosa potest rem publicam labefactare: quid fecerit videte. L. Lamiam, qui quum me ipsum pro summa familiaritate, quae mihi cum patre ejus erat, unice diligebat, tum pro re publica vel mortem oppetere cupiebat, in contione relegavit edixitque, ut ab urbe abesset milia passuum ducenta, quod esset ausus pro civi, pro bene merito civi, pro amico, pro re publica deprecari.

XIII. Quid hoc homine facias? aut quo civem importunum aut quo potius hostem tam sceleratum reserves? qui, ut omittam cetera, quae sunt ei cum collega immani impuroque conjuncta atque communia, hoc unum habet proprium, ut ex urbe expulerit, relegarit, non dico equitem Romanum, non ornatissimum atque optimum virum, non amicissimum rei publicae civem, non illo ipso tempore una cum senatu et cum bonis omnibus casum amici reique publicae lugentem, sed civem Romanum sine ullo judicio ut edicto ex patria consul ejecerit. Nihil acerbius socii et Latini ferre soliti sunt

illius diei] Gellius (ix. 14) says that Cicero in this passage wrote 'dies' and not 'diei:' "Ciceronem quoque affirmat Caesellius in oratione quam pro P. Sestio fecit, *dies* scripsisse pro *diei:* quod ego impensa opera conquisitis veteribus libris plusculis ita, ut Caesellius dicit, scriptum inveni."

in clivo Capitolino] See the note in chapter 11 on 'Concordiae.' The 'illius diei' is the day, the Nonae Decembres (Quum Senatui, c. 5, and the notes).

ulciscendi se.] 'Ulciscendi sui,' Halm (2).

dixisset] "Et notabiliter media verbi parte subtracta non implevit omnibus syllabis *dixisset*, sed *dixet*" (Schol.). Klotz has accepted 'dixet.'

L. Lamia,] The story is told by Dion Cassius, 38. c. 16; In Pison. c. 27. Compare Quum Senatui, c. 5.

mihi cum patre] 'mihi cum fratre cum patre' P., 'cum fratre mihi vel compare cum fratre' G., 'mihi cum patre,' Madvig; 'mihi [cum fratre] cum patre,' Halm (2).

13. *Quid hoc homine facias?*] See Verr. ii. 1. c. 16; where there is the same expression; c. 35, "quid illo myoparone factum sit;" and ii. 2. c. 16.

aut quo potius] The MSS. reading, which Halm (1) rejects, but in his later edition accepts. In (1) he has a note to show that the second 'quo' is not wanted; but he afterwards (2) adopts Klotz's opinion which he had rejected. Klotz compares Verr. ii. 3. c. 75: "Quae est ergo ista ratio aut quae potius ista amentia?" and some other passages. As the first 'aut' replaces 'Quid hoc homine facias;' so the second 'aut quo potius,' &c. replaces 'quo civem importunum.'

relegarit,] Fest. p. 278, Muell.: "Relegati dicuntur proprie, quibus ignominiae aut poenae causa necesse est ab urbe Roma aliove quo loco abesse lege senatuisve consulto aut edicto magistratuis, ut etiam Aelius Gallus indicat." A consul could not drive citizens from Rome; but yet we are told that it was done at this time.

judicio ut edicto] 'Aut edicto' is the reading of the best MSS.; but one has 'ut edicto,' which confirms Bake's conjecture, and is perhaps the true reading. Manutius, followed by Garatoni, proposed 'sine ullo judicio, edicto.' If we do not read 'ut edicto, we must erase the 'aut' of the MSS. Garatoni compares c. 24: "expulsos sine judicio, vi, lapidibus, ferro."

socii et Latini] Before the enactment of

quam se, id quod perraro accidit, ex urbe exire a consulibus juberi. Atque illis tum erat reditus in suas civitates, ad suos Lares familiares, et in illo communi incommodo nulla in quemquam propria ignominia nominatim cadebat. Hoc vero quid est? exterminabit cives Romanos edicto consul a suis diis penatibus? expellet ex patria? deliget quem volet? damnabit atque ejiciet nominatim? Hic, si umquam vos eos, qui nunc estis, in re publica fore putasset, si denique imaginem judiciorum aut simulacrum aliquod futurum in civitate reliquum credidisset, umquam ausus esset senatum de re publica tollere, equitum Romanorum preces aspernari, civium denique omnium novis et inauditis edictis jus libertatemque pervertere? Etsi me attentissimis animis, summa cum benignitate auditis, judices, tamen vereor, ne quis forte vestrum miretur, quid haec mea oratio tam longa aut tam alte repetita velit, aut quid ad P. Sestii caussam eorum, qui ante hujus tribunatum rem publicam vexarunt, delicta pertineant. Mihi autem hoc propositum est ostendere omnia consilia P. Sestii mentemque totius tribunatus hanc fuisse, ut afflictae et perditae rei publicae quantum posset mederetur. Ac si in exponendis vulneribus illis de me ipso plura dicere videbor, ignoscitote! Nam et illam meam cladem vos et omnes boni maximum esse rei publicae vulnus judicastis, et P. Sestius est reus non suo, sed meo nomine; qui quum omnem vim sui tribunatus in mea salute consumpserit, necesse est meam caussam praeteriti temporis cum hujus praesenti defensione esse conjunctam.

XIV. Erat igitur in luctu senatus; squalebat civitas publico consilio veste mutata; nullum erat Italiae municipium, nulla

the Lex Julia, B.C. 90, 'Socii et Latini' was the form of expression used to express the Italian Socii and the Latini. It is the common formula (Verr. ii. 5. c. 24). Two instances are recorded of a consul by an 'edictum' driving the Latini from Rome. Proculus Virginius did it when he had for colleague Sp. Cassius Viscellinus; and C. Fannius also ordered the Latini to leave Rome whom C. Gracchus had invited to come and vote there (Appian, B. C. i. 23; Cicero, Brutus, c. 26; and Plutarch, C. Gracchus, c. 12).

aut tam alte] A. P. G. Madvig remarks that this is the reading of the best MSS., and it has taken the place of 'ac tam alte.' He compares c. 46: "Hanc ego viam, judices, si aut asperam atque arduam aut plenam esse periculorum aut insidiarum negem, mentiar;" and he observes that in negative sentences the Latins often disjoin where we conjoin, and also in interrogative sentences which incline to negation or signify disapprobation. There is nothing in this explanation. It depends on the sense whether we use 'aut' or 'ac,' and 'aut' is the word here; for, as Madvig observes, "nec oratio longa semper est alte repetita." Garatoni, who maintained the reading 'ac,' cites Pro Cluentio: "incipit longo et alte petito proemio respondere;" and De Or. iii. 24; but in both these cases 'aut' would spoil the meaning.

non suo, sed meo nomine;] This is not literally true; but oratorically. He was formally prosecuted for his alleged illegal acts, but these acts were done in his tribuneship for the interest of Cicero and to procure Cicero's recall.

colonia, nulla praefectura, nulla Romae societas vectigalium, nullum collegium aut concilium aut omnino aliquod commune consilium, quod tum non honorificentissime de mea salute decrevisset, quum subito edicunt duo consules, ut ad suum vestitum senatores redirent. Quis umquam consul senatum ipsius decretis parere prohibuit? quis tyrannus miseros lugere vetuit? Parumne est, Piso, ut omittam Gabinium, quod tantum homines fefellisti, ut negligeres auctoritatem senatus, optimi cujusque consilia contemneres, rem publicam proderes, consulare nomen affligeres? etiamne edicere audeas, ne maererent homines meam, suam, rei publicae calamitatem, ne hunc suum dolorem veste significarent? Sive illa vestis mutatio ad luctum ipsorum sive ad deprecandum valebat, quis umquam tam crudelis fuit qui prohiberet quemquam aut sibi maerere aut ceteris supplicare? Quid, sua sponte homines in amicorum periculis vestitum mutare non solent? pro te ipso, Piso, nemone

14. *societas vectigalium,*] "Though these 'societates' had a 'corpus,' yet they are always distinguished from 'collegia.' v. Mommsen de Coll. p. 84 seq." (Halm). To have a 'corpus' means to have the quality of an artificial person (Verr. ii. 2. c. 70, note). These 'societates' for purposes of commerce were not called 'collegia,' but 'societates' or 'privatae societates.' The name of 'collegia' which were established for other purposes, something like our clubs, was 'sodalitates,' 'sodalitia,' 'collegia sodalitia.' There is a title in the Digest, De Collegiis et Corporibus (47. 22), where Caius says (47. 22. 4): "Sodales sunt qui ejusdem collegii sunt, quam Graeci ἑταιρίαν vocant."

concilium] Is a body of men called together for any purpose. A 'commune consilium' sometimes means a senate or a body like a senate. If Cicero uttered both 'concilium' and 'consilium,' and these are two different words, as we suppose, we may assume that the sound was different, and that 'ci' is the same as 'ki.'

audeas,] Lambinus proposed to write 'audebas,' which Madvig approves. He objects to 'audeas' that the orator is speaking of what Piso did in his consulship: 'parumne est, quod . . . fefellisti;' and that 'audeas,' if it is right, must be taken ὑποθετικῶς, and yet this is disproved by the imperfects which follow.—But the objection on account of 'maererent' seems to have no weight. Halm correctly observes that if Cicero intended to use the past tense he would have said 'ausus es,' as In Pison. c. 18: "edicere est ausus . . . ut senatus contra quam ipse censuisset ad vestitum rediret." I think that 'audeas' is right. He says "Is it a small matter," where he uses the present; and he further says, "should you even be bold enough to make an 'edictum,'" &c.

ceteris supplicare?] The opposition of 'sibi' and 'ceteris' shows that Hotmann understood this right: "to forbid any person to lament his own misfortunes (sibi), or to be a suppliant for others (ceteris) in their misfortunes." Halm compares Verr. ii. 2. c. 8: "Hunc hominem Veneri absolvit, sibi condemnat."

pro te ipso, Piso,] Piso was in Macedonia, where he was proconsul (c. 43). P. G. have 'mutavit.' Halm cites 'Lallemand' as the authority for 'mutabit;' and Wolf (Quum Populo, c. 5, note) says: "id vocabulum *mutavit* . . . corruptum est et corrigendum *mutabit*, ut sequentia attente legenti luce clarius apparebit." Here he addresses Piso, though he was not present; and the Declamator does so in the Quum Senatui (c. 7, note), to which I direct the reader's attention that he may, if he chooses, use this passage as an argument in defence of the other; for truth should always be told, and there is no duty more agreeable to him who seeks the truth than to furnish his opponents with the best arguments that he can. When the 'candidus lector' has read both passages and compared the ways in which the thing is treated in both, I believe, if his judgment is sound, that the case of the Declamator will gain nothing by the help of this passage.

mutabit? ne isti quidem, quos legatos non modo nullo senatus consulto, sed etiam repugnante senatu, tibi tute legasti? Ergo hominis desperati et proditoris rei publicae casum lugebunt fortasse qui volent; civis florentissimi benevolentia bonorum et optime de salute patriae meriti periculum conjunctum cum periculo civitatis lugere senatui non licebit? Iidemque consules,—si appellandi sunt consules, quos nemo est quin non modo ex memoria, sed etiam ex fastis evellendos putet,—pacto jam foedere provinciarum, producti in circo Flaminio in contionem ab illa furia ac peste patriae, maximo cum gemitu vestro illa omnia, quae tum contra me contraque rem publicam . . . . ., voce ac sententia sua comprobaverunt.

XV. Isdemque consulibus sedentibus atque inspectantibus lata lex est, NE AUSPICIA VALERENT, NE QUIS OBNUNTIARET, NE QUIS LEGI INTERCEDERET: UT OMNIBUS FASTIS DIEBUS LEGEM FERRI LICERET: UT LEX AELIA, LEX FUFIA NE VALERET: qua una

quos legatos] We might infer from these words that the Senate properly named the legati; and this may have been the rule, but it was now a time when the generals at the head of their armies were beginning to assume powers which belonged to the Senate. Manutius refers to In Vatin. c. 15. Madvig agrees with J. F. Gronovius, who would strike out 'legatos' in this passage, for no reason at all, as I think. Halm judiciously defends it.

quin non modo] Garatoni corrected the MSS. reading 'qui non modo.' The omission of an *n* in such a case is easily explained; but it is singular that every MS. should omit it, if every MS. does.

producti] This is the usual form. Clodius brought the consuls forward in the Circus Flaminius, and asked them what they thought of Cicero's consulship. Piso answered: "crudelitatem tibi non placere," as Cicero says, repeating his words (In Pison. c. 6). The Circus Flaminius was out of the Pomoerium, and the 'contio' was held there that Caesar might be present, for Caesar could not enter the city, as he was 'cum imperio.' See Quum Senatui, c. 13, and the note on Dion Cassius, 38. c. 17; and Quum Senatui, c. 6, and the note.

15. *sedentibus*] There is no reason why this should not mean 'in their curule chair,' as Ernesti says. In the In Vatin. c. 7, which Garatoni cites, "sedentibus in templo duobus non consulibus," it can mean nothing else. In the Quum Senatui, c. 5, there is 'inspectante et sedente,' where Wolf explains 'sedente' to mean 'quiescente,' 'tacente,' and perhaps, says Halm, that is the right meaning of 'sedente' there, because 'sedere' is the second verb. Compare this passage with the Quum Senatui, c. 5, as to the Lex of Clodius, and the notes. "Quattuor leges rei publicae perniciosas tulit P. Clodius in tribunatu: de annona, ut populo frumentum gratis daretur: alteram, ut collegia restituerentur: tertiam, ut infirma censorum potestas esset: quartam hanc, de qua hic Cicero loquitur. v. infra, c. 25; In Pison. c. 5; Dion Cass. 38. c. 13" (Manutius).

ne quis legi intercederet:] Clodius' Lex, as we are told, declared that the 'auspicia' should have no effect, that no magistratus should interrupt a popular assembly by his 'obnuntiatio,' and that no one should put a veto on a Lex, should stop its enactment by any objection, or, if we like, by an 'obnuntiatio,' for that has just been mentioned, and 'ne quis legi intercederet' may mean no more. It certainly does not mean that Clodius by a Lex put an end to the tribunitian 'intercessio.' Halm, after examining the question, concludes from all the passages which he cites that the 'intercessio' is meant which was effected by the 'obnuntiatio,' since when a magistratus was holding comitia, magistrates of equal authority and tribuni pl. could use the 'obnuntiatio;' for in this way the enactment of Leges was prevented no less than by the tribuni pl. using their peculiar power of 'intercessio' (Halm). If this passage is correct, we must assume that there was both a Lex Aelia, and a Lex Fufia. See c. 26; and Quum Senatui, c. 5, note.

rogatione quis est qui non intelligat universam rem publicam esse deletam? Isdemque consulibus inspectantibus servorum delectus habebantur pro tribunali Aurelio nomine collegiorum, quum vicatim homines cônscriberentur, decuriarentur, ad vim, ad manus, ad caedem, ad direptionem incitarentur. Isdemque consulibus arma in templum Castoris palam comportabantur, gradus ejusdem templi tollebantur: armati homines forum et contiones tenebant, caedes lapidationesque fiebant: nullus erat senatus, nihil reliqui magistratus: unus omnem omnium potestatem armis et latrociniis possidebat, non aliqua vi sua, sed quum duo consules a re publica provinciarum foedere retraxisset, insultabat, dominabatur, aliis pollicebatur, terrore ac metu multos, plures etiam spe et promissis tenebat. Quae quum essent ejusmodi, judices, quum senatus duces nullos ac pro ducibus proditores aut potius apertos hostes haberet, equester ordo reus a consulibus citaretur, Italiae totius auctoritas repudiaretur, alii nominatim relegarentur, alii metu ac periculo terrerentur, arma essent in templis, armati in foro, eaque non silentio consulum dissimularentur, sed et voce et sententia comprobarentur; quum omnes urbem nondum excisam et eversam, sed jam captam atque oppressam videremus, tamen his tantis malis tanto bonorum studio,

deletam?] It is plain what he means: that if the Auspicia and the religious ceremonial were taken away, the state was destroyed, for religion was one of the foundations of the Roman state. Halm refers to In Vatin. c. 9: "qui primum eam rem publicam, quae auspiciis inventis constituta est, iisdem auspiciis sublatis conarere evertere;" and he says, In Vatin. c. 7, of the Leges Aelia and Fufia: "quae leges saepenumero tribunitios furores debilitaverunt ac represserunt."

pro tribunali Aurelio] Before and about the tribunal Aurelium, which was a stone edifice in the Forum surrounded by steps, the 'Aurelii gradus.' See De Domo, c. 21.

nomine collegiorum,] As belonging to the several 'collegia.' The Senate, B.C. 64, had abolished many 'collegia,' which were 'urbana' and chiefly 'compitalicia,' or such as the inhabitants of the same 'compitum' formed. The purpose or the pretext for establishing these 'collegia' was the performance of some religious ceremony, but as these 'collegia' were the cause of disorder, the Senate abolished them (Asconius in Cornelianam, p. 75, ed. Orelli). Clodius re-established the 'collegia' which the Senate had abolished: this was done by his Lex 'de collegiis restituendis novisque instituendis.' These 'collegia compitalicia' were among those 'sacra,' from which slaves were not excluded (Halm, from Mommsen).

vicatim] According to the 'vici' of each 'compitum,' they were enrolled (conscribebantur), and formed into companies of tens (decuriabantur). De Domo, c. 21.

arma in templum] De Domo, c. 21. As to the taking away of the steps (Quum Senatui, c. 13, note; and In Pison. cc. 5, 10).

nihil reliqui magistratus:] A double genitive, one depending on the other, "nothing left of 'magistratus.'"

duces nullos] The consuls. See cc. 8, 19; and De Domo, 38, note on 'vobis principibus.'

equester ordo . . . citaretur,] Said 'oratorie,' as Manutius properly observes. Compare c. 12: "equites Romanos daturos illius diei poenas."—'alii metu:' the things which he mentions in c. 17, the declarations of Clodius that he was acting under the advice of Pompeius, Crassus, and Caesar, whose meaning was inferred from their silence, for they did not contradict what Clodius said (Manutius).

judices, restitissemus: sed me alii metus atque aliae curae suspicionesque moverunt.

XVI. Exponam enim hodierno die, judices, omnem rationem facti et consilii mei; neque huic vestro tanto studio audiendi nec vero huic tantae multitudini, quanta meâ memoriâ numquam ullo in judicio fuit, deero. Nam si ego in caussa tam bona, tanto studio senatus, consensu tam incredibili bonorum omnium, tam parato, tota denique Italia ad omnem contentionem expedita cessi tribuni plebis, despicatissimi hominis, furori, contemptissimorum consulum levitatem audaciamque pertimui, nimium me timidum, nullius animi, nullius consilii fuisse confiteor. Quid enim simile fuit in Q. Metello? cujus caussam etsi omnes boni probabant, tamen neque senatus publice neque ullus ordo proprie neque suis decretis Italia tota susceperat. Ad suam enim quandam magis ille gloriam quam ad perspicuam salutem rei publicae sumpserat, quum unus in legem per vim latam jurare noluerat: denique videbatur ea conditione tam fortis fuisse, ut cum patriae caritate constantiae gloriam commutaret. Erat autem res ei cum exercitu C. Marii invicto, habebat inimicum C. Marium, conservatorem patriae, sextum jam illum consulatum gerentem; res erat cum L. Saturnino, iterum tribuno plebis, vigilante homine et in caussa populari si non moderate, at certe populariter abstinenterque versato. Cessit, ne aut victus a fortibus viris cum dedecore caderet, aut victor multis et fortibus civibus rem publicam orbaret. Meam caussam senatus palam, equester ordo acerrime, cuncta Italia publice, omnes boni proprie enixeque susceperant. Eas res gesseram, quarum non unus auctor, sed dux omnium voluntatis fuissem, quaeque non modo ad singularem meam gloriam,

16. *despicatissimi*] A rare word. It occurs in Verr. ii. 3. c. 41 (Halm).

Q. Metello?] Numidicus. One of Cicero's 'communes loci.' Compare In Pison. c. 9; and Plutarch (Marius, c. 29): Metellus refused to swear to the Agraria Lex of Saturninus: "All the senators took the oath in order, through fear of the people, till it came to the turn of Metellus, and though his friends urged and intreated him to take the oath, and so to avoid the severe penalties which the law of Saturninus enacted against those who refused, he would not swerve from his purpose or take the oath." See Appian, B. C. i. 29. The Lex of Saturninus was about the division of some land taken from the Cimbri.

sumpserat,] P. G.; 'tum spectarat,' Madvig, Halm (1); 'spectarat,' Orelli and the old editions; 'suspexerat,' Jacobus; 'superbierat,' Hermannus; fort. 'exilium sumpserat' (Halm). Something is wrong, but it is hard to guess what Cicero wrote.

ea conditione] 'for such a price' (Halm). The words refer to 'Ad suam quandam magis gloriam.' He preferred his glory or character to his affection for his country.

abstinenter] Saturninus only proposed an Agraria Lex. He was not seeking any private profit. He acted 'populariter,' in a way to please the people, and he had no private interest (abstinenter).—'cum dedecore:' "vinci et succumbere semper est dedecus, praecipue si videas tibi cum fortiore rem esse, a quo non possis non opprimi" (Graevius), whose note is printed by Halm; a sample of the puerile remarks with which a good editor often encumbers his book. I never heard before that it is always disgraceful to be overcome by superior force.

sed ad communem salutem omnium civium et prope gentium pertinerent; ea conditione gesseram, ut meum factum semper omnes praestare tuerique deberent.

XVII. Erat autem mihi contentio non cum victore exercitu, sed cum operis conductis et ad diripiendam urbem concitatis: habebam inimicum non C. Marium, terrorem hostium, spem subsidiumque patriae, sed duo importuna prodigia, quos egestas, quos aeris alieni magnitudo, quos levitas, quos improbitas tribuno plebis constrictos addixerat: nec mihi erat res cum Saturnino, qui, quod a se quaestore Ostiensi per ignominiam ad principem et senatus et civitatis, M. Scaurum, rem frumentariam translatam sciebat, dolorem suum magna contentione animi persequebatur: sed cum scurrarum locupletium scorto, cum sororis adultero, cum stuprorum sacerdote, cum venefico, cum testamentario, cum sicario, cum latrone: quos homines si, id quod facile factu fuit et quod fieri debuit quodque a me optimi et fortissimi cives flagitabant, vi armisque superassem, non verebar, ne quis aut vim vi repulsam reprehenderet aut perditorum civium vel potius domesticorum hostium mortem maereret. Sed me illa moverunt: omnibus in contionibus illa furia clamabat se, quae faceret contra salutem meam, facere auctore Cn. Pompeio, clarissimo viro mihique et nunc et quoad licuit amicissimo. M. Crassus, quocum mihi omnes erant amicitiae necessitudines, vir fortissimus, ab eadem illa peste infestissimus esse meis fortunis praedicabatur. C. Caesar, qui a me nullo meo merito alienus esse debebat, inimicissimus esse

17. *addixerat:*] Their poverty had assigned them to Clodius, as a debtor is assigned to his creditor. See Pro Quintio, c. 30, note, Vol. II.

M. Scaurum,] De Harusp. c. 20; and Pro Murena, c. 8, note. M. Scaurus, consul B.C. 115, was named (lectus) 'princeps senatus' by the censors L. Metellus and Cn. Domitius in the same year. He is called in the De Oratore (i. 49): "vir regendae rei publicae scientissimus" (Orelli). —'scurrarum:' Pro P. Quintio, c. 3, Vol. II.

scorto,] De Harusp. c. 20. He speaks of Clodius' scandalous commerce with one sister only here. It was L. Lucullus' wife Clodia, as some suppose: others suppose it to be the Clodia who was the wife of Q. Metellus Celer (c. 7).—'stuprorum sacerdote:' 'priest of seduction,' for he entered Caesar's house during the celebration of the mysteries of the Bona Dea in order to seduce Pompeia, Caesar's wife. Manutius quotes a similar expression from one of Cicero's letters (Ad Att. i. 18): "M. Luculli uxorem Memmius suis sacris initiavit." He adds, "Historiam hac de re (the Bona Dea) nemo paullo humanior ignorat." Certainly not, if he has been humanized by Cicero; for we have it every where in his writings.

venefico,] He alludes perhaps to the alleged poisoning of Q. Seius Postumus (De Domo, c. 44; De Harusp. c. 14).—'testamentario:' compare the passage in the De Harusp. c. 20: "Inde cum Murena se in Galliam contulit," &c.

optimi . . . cives] L. Lucullus (Plutarch, Cicero, c. 31) advised Cicero to fight it out.

nullo meo merito] Compare De Domo, c. 16, where the "quosdam viros fortes" is Caesar.

alienus esse debebat,] Halm (1) suggests that 'non' has been lost before 'debebat.' He adds that if the text is right, 'debere' must be considered as an equivalent to 'necesse esse.'

meae saluti ab eodem quotidianis contionibus dicebatur. His se tribus auctoribus in consiliis capiendis, adjutoribus in re gerenda esse usurum dicebat; ex quibus unum habere exercitum in Italia maximum: duo, qui privati tum essent, et praeesse et parare si vellent exercitum posse, idque facturos esse dicebat. Nec mihi ille judicium populi nec legitimam aliquam contentionem nec disceptationem aut caussae dictionem, sed vim, arma, exercitus, imperatores, castra denuntiabat.

XVIII. Quid ergo, inimici oratio, vana praesertim, tam improbe in clarissimos viros conjecta me movit? Me vero non illius oratio, sed eorum taciturnitas, in quos illa oratio tam improba conferebatur; qui tum, quamquam ob alias caussas tacebant, tamen hominibus omnia timentibus tacendo loqui, non infitiando confiteri videbantur. Illi autem aliquo tum timore perterriti, quod acta illa atque omnes res anni superioris labefactari a praetoribus, infirmari a senatu atque

exercitum in Italia maximum:] Plutarch (Caesar, c. 14) says of Caesar, who is here alluded to, that "immediately after his marriage (with Caesar's daughter) Pompeius filled the Forum with armed men and supported the people in passing Caesar's laws and in giving him for five years Gaul on both sides of the Alps, with the addition of Illyricum and four legions." One legion was in Gallia Provincia and three were in winter quarters at Aquileia in North Italy (Quum Senatui, c. 13, note). His army was in North Italy and the Provincia, and there was no other in Italy, as we are told here, for Clodius would not have said that the other two, Crassus and Pompeius, could raise an army, if there was one already. There was no army in Italy except Caesar's, and his army was not at the gates of Rome.

praeesse] "'praesto esse' F. Car. Wolfius; '*praeesse*' Codd.; '*rei publ. praeesse*' conj. Orelli (cf. Madvig, p. 458, note); '*rebus praeesse*' Jacob. p. 502; '*et praeesse*' Schuetzius ex Ern. conj. delevit. Librorum scripturam defendit Bake, p. 74" (Halm). There is no satisfactory explanation of 'praeesse' alone. Halm has 'praesto esse' (2).

judicium populi] A trial by the 'populus' assembled in 'centuriae' (c. 30). Halm observes that Abrami sweated to no purpose (he was a very hard worker) in trying to make out the difference between 'legitima contentio,' 'disceptatio,' and 'caussae dictio.' He ought to have known his author better, who would have told him, if he had read like a man of sense, that this abundance of words came from his rhetorical art. Halm saw this. 'Disceptatio' has a well-settled meaning. (Vol. I. Verr. ii. 3. c. 72.)

18. *vana*] 'False.' He adds 'praesertim:' 'the language of an enemy, and false besides;' a good reason why Caesar and the others should have contradicted it; but he says that they did not.—'Illi autem:' he means Caesar. The Scholiast has a good note on the 'acta illa:' "De actis loquitur quae habuit in consulatu C. Caesar inauspicato, ut videbatur: qua de re adversus eum egerant in senatu C. Memmius et L. Domitius praetores, et ipsius Caesaris orationes contra hos exstant, quibus et sua acta defendit et illos insectatur. Dat ergo causam C. Caesari, ut videatur ea propter et Clodio trib. et coss. Pisoni et Gabinio in perniciem M. Tullii consensisse, ut ea quae in consulatu gesserat permanerent."

a praetoribus,] A passage in Caesar's Life by Suetonius, c. 23, explains this: "Functus consulatu C. Memmio Lucioque Domitio praetoribus de superioris anni actis referentibus, cognitionem senatui detulit (Caesar): nec illo suscipiente triduoque per irritas altercationes absumpto in provinciam abiit: et statim quaestor ejus in praejudicium aliquot criminibus arreptus est." The Senate had the power of indirectly repealing Leges by declaring that they had been made irregularly; and if the Senate did this in respect to Caesar's Leges, his 'acta' would be 'infirmata.' The 'principes civitatis' who were opposed to Caesar were M. Bibulus, who had been his colleague in the consulship, M. Cato, L. Domitius, and others (Manutius).

principibus civitatis putabant, tribunum popularem a se alienare nolebant, suaque sibi propiora esse pericula quam mea loquebantur. Sed tamen et Crassus a consulibus meam caussam suscipiendam esse dicebat, et eorum fidem Pompeius implorabat, neque se privatum publice susceptae caussae defuturum esse dicebat; quem virum studiosum mei, cupidissimum rei publicae conservandae, domi meae certi homines ad eam rem positi monuerunt ut esset cautior, ejusque vitae a me insidias apud me domi positas esse dixerunt; atque hanc ei suspicionem alii litteris mittendis, alii nuntiis, alii coram ipsi excitaverunt, ut ille, quum a me certe nihil timeret, ab illis, ne quid meo nomine molirentur, sibi cavendum putaret. Ipse autem Caesar, quem maxime homines ignari veritatis mihi esse iratum putabant, erat ad portas, erat cum imperio, erat in Italia ejus exercitus, inque eo exercitu ipsius tribuni plebis, inimici mei, fratrem praefecerat.

XIX. Haec ergo quum viderem—neque enim erant occulta,—senatum, sine quo civitas stare non posset, omnino de civitate esse sublatum; consules, qui duces publici consilii esse deberent, perfecisse ut per ipsos publicum consilium funditus tolleretur; eos qui plurimum possent opponi omnibus contionibus falso, sed formidolose tamen, auctores ad perniciem meam; contiones haberi quotidie contra me; vocem pro me ac pro re publica neminem mittere; intenta signa legionum existimari cervicibus ac bonis vestris falso,

publice susceptae] If the consuls would take up my case, for that is the meaning of 'publice susceptae,' he would as a private individual help them.

domi meae . . . positi] The men were placed in his house or sent there to examine, but it is not said what they could see or what probable lie they could make out of what they saw. See De Domo, c. 21. Halm compares Livy iii. 33: "defosso cadavere domi apud P. Sestium."

ignari veritatis] Not knowing his real reasons for keeping silent; he kept silent, not because he was offended at Cicero, but because he was afraid of offending Clodius.

erat ad portas,] Caesar was there, but his army was not; but the Declamator (Quum Senatui, c. 13, note) says that it was. "For Caesar did not set out to the war until he had expelled Cicero. Plutarch, Caesar, c. 14" (Manutius). But Plutarch does not say that his army was at the gates of Rome. Halm refers to Drumann, iii. p. 222, &c. But Drumann does not say that Caesar's army was at the gates of Rome.

inque eo exercitu] Lambinus proposed 'eique exercitui;' but that is a different thing. Here it is 'gave him a command in that army.' Caesar in his Commentaries never mentions Appius Claudius Pulcher, the brother of Clodius.

19. *eos qui plurimum possent*] M. Crassus, Pompeius, and Caesar.—'opponi omnibus contionibus:' 'were presented to all the assemblies of the people in a false way, but still in a way to excite alarm, as men who planned my ruin.' Halm compares c. 23, where 'opponere' occurs twice in this sense; and Ad Fam. x. 28, "nisi . . . is oppositus esset terror Antonio."

intenta signa legionum] "Consultissimo temperamento et C. Caesarem perstringit invidia et tamen nihil accusat exserte," &c. (Schol.) It was false however, and every body would know that it was false; for if Caesar had then brought his troops from Gallia Cisalpina over the Rubicon, he would have declared war against his country, as he did in B.C. 49.

sed putari tamen; conjuratorum copias veteres et effusam illam ac superatam Catilinae importunam manum novo duce et insperata commutatione rerum esse renovatam:—haec quum viderem, quid agerem, judices? scio enim tum non mihi vestrum studium, sed meum prope vestro defuisse. Contenderem contra tribunum plebis privatus armis? Vicissent improbos boni, fortes inertes; interfectus esset is, qui hac una medicina sola potuit a rei publicae peste depelli: quid deinde? quis reliqua praestaret? cui denique erat dubium quin ille sanguis tribunicius, nullo praesertim publico consilio profusus, consules ultores et defensores esset habiturus? quum quidam in contione dixisset aut mihi semel pereundum aut bis esse vincendum. Quid erat bis vincere? Id profecto ut, cum amentissimo tribuno plebis quum decertassem, cum consulibus ceterisque ejus ultoribus dimicarem. Ego vero, vel si pereundum fuisset, ac non accipienda plaga mihi sanabilis, illi mortifera, qui eam imposuisset, semel perire tamen, judices, maluissem quam bis vincere. Erat enim illa altera ejusmodi contentio, ut neque victi neque victores rem publicam tenere possemus. Quid? si in prima contentione vi tribunicia victus in foro cum multis bonis viris concidissem? Senatum consules, credo, vocassent, quem totum de civitate delerant; ad arma vocarent, qui ne vestitu quidem defendi rem publicam sissent; a tribuno plebis post interitum meum dissedissent, qui eandem horam meae pestis et suorum praemiorum esse voluissent.

XX. Unum enim mihi restabat illud, quod forsitan non nemo vir fortis et acris animi magnique dixerit: Restitisses, repugnasses,

effusam illam ac superatam] Orelli and other critics were not satisfied with this. Gulielmius proposed 'fusam' in place of 'effusam,' which is a good conjecture, though 'effusam,' I suppose, could be said of a body of men who were dispersed. He adds 'superatam,' 'a defeated band.'

meum prope vestro defuisse.] Halm compares the Pro Plancio, c. 36: "Hisce ego auxiliis salutis meae si idcirco defui, quia nolui dimicare, fatebor, id quod vis, non mihi auxilium, sed me auxilio defuisse."

ille sanguis tribunicius,] The tribuni were 'sacrosancti;' and the shedding of a tribune's blood was a great offence against religion.—'quum quidam:' this is an emendation in place of 'quum quidem,' but it is confirmed by A.; and indeed it might have been accepted without such confirmation.

bis vincere?] Compare Pro Plancio, c. 36 (Halm).—'ut *si* cum amentissimo tribuno plebis decertassem,' Halm (2).

ad arma vocarent,] Ernesti proposed to write 'vocassent' and Garatoni 'evocassent' for 'vocarent.' I do not understand 'vocarent.'

20. *Unum enim*] i. e. 'scilicet,' Hand. Turs. ii. p. 389 (Halm). It means, 'One thing indeed remained for me, and it was this,' or 'You may say one thing remained, which was this, and perhaps some one may have said it.' There are other examples like this: as Verr. ii. 1. c. 9; Pro Q. Roscio Com. c. 9; Pro Caecina, c. 7.

But Halm (2) has written 'etiam' for 'enim.' Koechly would like to have 'ergo.'

Restitisses . . . oppetisses.] 'You should have resisted.' Wunder discovered in these words, which have the jingle of a trochaic tetrameter, a verse of a tragic poet, taking the precaution however to observe that the

mortem pugnans oppetisses.—De quo te, te, inquam, patria, testor, et vos, penates patriique dii, me vestrarum sedium templorumque caussa, me propter salutem meorum civium, quae mihi semper fuit mea carior vita, dimicationem caedemque fugisse. Etenim si mihi in aliqua nave cum meis amicis naviganti hoc, judices, accidisset, ut multi ex multis locis praedones classibus eam navem se oppressuros minitarentur, nisi me unum sibi dedidissent, si id vectores negarent ac mecum simul interire quam me tradere hostibus mallent, jecissem ipse me potius in profundum, ut ceteros conservarem, quam illos mei tam cupidos non modo ad certam mortem, sed in magnum vitae discrimen adducerem. Quum vero in hanc rei publicae navem ereptis senatui gubernaculis fluitantem in alto tempestatibus seditionum ac discordiarum armatae tot classes, nisi ego essem unus deditus, incursurae viderentur, quum proscriptio, caedes, direptio denuntiaretur, quum alii me suspicione periculi sui non defenderent, alii vetere odio bonorum incitarentur, alii inviderent, alii obstare sibi me arbitrarentur, alii ulcisci dolorem aliquem suum vellent, alii rem ipsam publicam atque hunc bonorum statum otiumque odissent et ob hasce caussas tot tamque varias me unum deposcerent, depugnarem potius cum summo non dicam exitio, sed periculo certe vestro liberorumque vestrorum, quam [non] id quod omnibus impendebat unus pro omnibus susciperem ac subirem?

first syllable in 'repugnasses' is short. The thing is every way too absurd to talk about.

vectores] "Servius, Aen. viii. 532: Vector qui vehit et qui vehitur" (Garatoni). Ulpian (Dig. 14. 1. 1. § 3): "magistri autem imponuntur locandis navibus vel ad merces vel vectoribus conducendis armamentisve emendis;" where 'vectores' means the sailors; and (Dig. 14. 1. 1. § 12): "quaedam enim naves onerariae, quaedam, ut ipsi dicunt, ἐπιβατηγοί sunt, et plerosque mandare scio ne vectores recipiant, et sic ut certa regione et certo mari negotientur; ut eae sunt naves, quae Brundusium a Cassiopa vel a Dyrrachio vectores trajiciunt ad onera inhabiles." Here 'vectores' means passengers. Also in another passage (Ulpian, Dig. 4. 9. 7. § 1) it means the passengers: "Item si praedixerit (exercitor) ut unusquisque vectorum res suas servet neque damnum se praestaturum, et consenserint vectores praedictioni, non convenietur."

non modo . . . sed in] "i. e. in magnum vitae discrimen, nedum ad certam mortem, ut recte I. M. Gesner explicat" (Halm). If we follow the usual practice of translating 'non modo' by 'not only' we lose the sense. It means "I do not say to certain death, but in great risk of losing their lives." Halm correctly remarks that this is the same which he expresses shortly after in another way, "cum summo non dicam exitio, sed periculo certe." See Remarks on Non Modo, Vol. I.

proscriptio,] We must understand the Lex, says Halm, by which after Cicero had left Rome the 'interdictio' of 'aqua' and 'ignis' was declared against him. Thus in c. 64, he says "meae proscriptiones." But this is not the meaning here, for he speaks generally 'quum . . . denuntiaretur,' and he has said that the ship of state was going to be attacked, 'nisi ego essem unus deditus,' and he adds, 'quum alii me suspicione periculi sui non defenderent.' But here, as Halm supposes, he seems to mean Pompeius only. It may be so; but he speaks vaguely, and purposely he speaks vaguely. Again 'alii obstare sibi me,' where Halm supposes that he means Caesar chiefly: and others I suppose too.

quam [non] id . . . subirem?] Gesner

XXI. Victi essent improbi.—At cives, at ab eo privato, qui sine armis etiam consul rem publicam conservarat. Sin victi essent boni, qui superessent? nonne ad servos videtis rem publicam venturam fuisse?—An mihi ipsi, ut quidam putant, fuit mors aequo animo oppetenda?—Quid, tum mortemne fugiebam? an erat res ulla quam mihi magis optandam putarem? aut ego illas res tantas in tanta improborum multitudine quum gerebam, non mihi mors, non exsilium ob oculos versabatur? non haec denique a me tum tamquam fata in ipsa re gerenda canebantur? an erat mihi in tanto luctu meorum, tanta disjunctione, tanta acerbitate, tanta spoliatione omnium rerum, quas mihi aut natura aut fortuna dederat, vita retinenda? tam eram rudis, tam ignarus rerum? tam expers consilii aut ingenii? nihil audieram? nihil videram? nihil ipse legendo quaerendoque cognoveram? nesciebam vitae brevem esse cursum, gloriae sempiternum? quum esset omnibus definita mors, optandum esse ut vita quae necessitati deberetur patriae potius donata quam reservata naturae videretur? nesciebam inter sapientissimos ho-

observed that 'non' should be erased, for if it is absurdly added, we do not say the contrary to that which ought to be said, but we say nothing at all. Cicero must either fight it out and involve the state in his danger, or take the risk on himself of the danger which threatened all (Madvig). There is no doubt about what is meant. Orelli thinks that the analogy of the Greek (μᾶλλον ἢ οὐ) and of the German language justify the 'non;' and he thinks that Wolf's translation is quite right: "hätte ich kämpfen lieber . . . als nicht das, was allen drohte . . . erdulden sollen." Halm adds: "adstipulatus est Orellio Klotz, satis habens ex Matth. grammatica, ad quam Orelli provocaverat, aliquot exempla exscripsisse; quae ut ipse invenire videretur, praeterea Matthiaei grammaticam conferri jussit, quasi in illa alia ab ipso nondum exscripta extarent" (Halm). Halm compares Pro Plancio c. 39: "cum tempestate pugnem periculose potius quam illi salute praesertim proposita obtemperem et paream."

It is plain that there is no negation in the second member of the sentence, but on the contrary, there is the affirmation of doing something; and the comparison is, 'should I have done this or that.' But it could also have been said, 'should I have done this, and not that;' and it is possible that the negation in the second member may be genuine, though it is a confused way of speaking, for if it were added here 'non . . . susciperem,' a man might read the passage without observing the 'non,' as many seem to have done; for Halm says that Gesner is the only critic who has observed that 'non' ought to be erased.

21. *qui superessent?*] 'Who would have remained?' and then he answers the question. 'Superessent' is preferable to the reading 'qui superesset.'

rem publicam venturam] The common reading is 'rem venturam,' as in the passage in the De Domo (c. 34), where Halm proposes to read 'res publica venisset,' of which Halm says "in quo loco est manifesta hujus loci imitatio."

res tantas] What he did in his consulship.—'exsilium:' Hotmann proposed 'exitium,' which Madvig and Wesenberg prefer; but as Halm observes, Cicero means to say that he foresaw in his consulship that he might be driven from Rome at some future time by the faction which was opposed to him.

canebantur?] A word used to express a prophetic warning, as Manutius says, who cites: "Quae tam multa nobis consulibus facta sunt, ut haec quae nunc fiunt canere dii immortales viderentur" (In Cat. iii. 8).—'natura aut fortuna:' nature gives children, fortune gives property (Manutius).

gloriae] Compare Pro Cn. Rabirio, c. 10, Vol. II., and the note on 'gloria;' also Pro Archia, c. 10.

mines hanc contentionem fuisse, ut alii dicerent animos hominum sensusque morte restingui, alii autem tum maxime mentes sapientium ac fortium virorum, quum e corpore excessissent, sentire ac vigere? quorum alterum fugiendum non esse, carere sensu; alterum etiam optandum, meliore esse sensu. Denique, quum omnia semper ad dignitatem rettulissem nec sine ea quidquam expetendum esse homini in vita putassem, mortem, quam etiam virgines Athenis, regis, opinor, Erechthei filiae, pro patria contempsisse dicuntur, ego vir consularis tantis rebus gestis timerem? praesertim quum ejus essem civitatis, ex qua C. Mucius solus in castra Porsennae venisset eumque interficere proposita sibi morte conatus esset: ex qua P. Decius primum pater, post aliquot annos patria virtute praeditus filius se ac vitam suam instructa acie pro salute populi Romani victoriaque devovisset: ex qua innumerabiles alii partim adipiscendae laudis, partim vitandae turpitudinis caussa mortem in variis bellis aequissimis animis oppetissent: in qua civitate ipse meminissem patrem hujus M. Crassi, fortissimum virum, ne videret

alii dicerent] The Epicurei, as Halm says; but others also, the Stoics for instance, were not agreed about a future existence. The Socratici believed in a future existence; or Socrates did, as we learn from Plato's Apology and the Phaedon.

tum maxime mentes] In his Laelius (c. 4) we have Cicero's apparent opinion when he was older: "animos hominum esse divinos, iisque quum e corpore excessissent reditum in caelum patere optimoque et justissimo cuique expeditissimum." Cicero says that some thought one thing on the immortality of the soul and some thought another; but he does not declare his own opinion here. He had however ridiculed the notions about punishment after death as an old woman's story (Pro Cluentio, c. 61, Vol. II.). It seems very doubtful if his own opinion of a future life was settled. There is another passage (De Sen. c. 23): "sed nescio quomodo animus erigens se ad posteritatem ita semper prospiciebat quasi quum excessisset e vita tum denique victurus esset."

opinor,] This is his way of referring to a thing on which he does not dwell or does not treat, as if it belonged to his purpose to trouble himself about such things: "idem, opinor, artifex ejusmodi Cupidinem fecit" (Verr. ii. 4. c. 2).

Erechthei filiae,] "Erechtheus—cujus filiae virgines, quum gravi bello Athenienses oppugnarentur nec ulla spes salutis ostenderetur, sumptis infulis ad aram steterunt: nam ita responsum erat, ut salus patriae jam desperata hoc genere piaculi compararetur. Auctor est exempli Varro libro humanarum ii" (Schol.). Cicero De Natura Deorum, iii. 19, alludes to the devotion of Erechtheus and his daughters: "Ob eam ipsam caussam Erechtheus Athenis filiaeque ejus in numero deorum sunt."

C. Mucius] The story of Mucius attempting to kill Porsenna is in Livy (ii. 12), one of the current stories about the old times which a man may believe or reject as he pleases. Cicero of course assumes that people did believe it, or he would not have talked about it; and they might believe this story without believing that about Erechtheus' daughters, which may be as true as the other, or as false; it matters not which.

P. Decius] These are some of Cicero's 'loci communes.' See Livy viii. 9; x. 28. Manutius observes that Cicero does not mention the third Decius who fell in the war against Pyrrhus. But Ferratius replies that Cicero is speaking of those who devoted themselves for their country, and not of those who merely died in battle (De Fin. ii. 19). The two Decii appear in the De Sen. c. 20: "non duo Decios qui ad voluntariam mortem cursum equorum incitaverunt."

ipse meminissem] He saw the troublesome times of Marius and Cinna, when P. Crassus, the father of M. Crassus, died by his own hand, being proscribed by Marius and Cinna: "Crassus filius ab equiti-

victorem vivus inimicum, eadem sibi manu vitam exhausisse, qua mortem saepe hostibus obtulisset.

XXII. Haec ego et multa alia cogitans hoc videbam, si caussam publicam mea mors peremisset, neminem umquam fore qui auderet suscipere contra improbos cives salutem rei publicae. Itaque non solum si vi interissem, sed etiam si morbo exstinctus essem, fore putabam ut exemplum rei publicae conservandae mecum simul interiret. Quis enim umquam me a senatu populoque Romano tanto omnium bonorum studio non restituto, quod certe, si essem interfectus, accidere non potuisset, ullam rei publicae partem cum sua minima invidia auderet attingere? Servavi igitur rem publicam discessu meo, judices: caedem a vobis liberisque vestris, vastitatem, incendia, rapinas meo dolore luctuque depuli, et unus bis rem publicam servavi, semel gloria, iterum aerumna mea. Neque enim in hoc me hominem esse infitiabor umquam, ut me optimo fratre, carissimis liberis, fidissima conjuge, vestro conspectu, patria, hoc honoris gradu sine dolore caruisse glorier. Quod si fecissem, quod a me beneficium haberetis, quum pro vobis ea quae mihi essent vilia reliquissem? Hoc meo quidem animo summi in patriam amoris mei signum esse debet certissimum, quod, quum abesse ab ea sine summo dolore non possem, hunc me perpeti quam illam labefactari ab improbis malui. Memineram, judices, divinum illum virum atque ex isdem quibus nos radicibus natum ad salutem hujus imperii, C. Marium, summa senectute, quum vim prope justorum armorum

bus Fimbriae interemptus: pater Crassus ne quid indignum sua virtute pateretur gladio se transfixit" (Liv. Epit. 80). Plutarch (Crassus, 4) says that the father and brother of M. Crassus were put to death; and Florus, iii. 21, says the same. Appian (B. C. i. 72) says that Crassus and his son being pursued by the assassins, Crassus killed his own son before his pursuers reached him, and was himself overtaken and slain. Cicero (De Or. iii. 3) keeps to his story.

22. *si caussam publicam*] Abramus compares the Pro Plancio, c. 37: "Ego vero si tum illorum ferro ac manu concidissem, in perpetuum res publica civile praesidium salutis meae perdidisset."

unus bis rem publicam] See De Domo, c. 37, note.

meo quidem animo] This is the same as 'meo judicio;' but Matthiae explains it: "quum meus is animus esset, nos dicimus, *bei dieser Gesinnung*;" which is certainly not the meaning. It is, as Halm says, '*nach meinem Gefühle*,' 'according to my feelings.' "Bakio *meo animo* formula dubitantis eaque ab hoc loco alienissima videtur; quare suo more sanae orationis parti scalpellum adhibuit" (Halm); a very just reproof of an ingenious critic, who sometimes gets wrong.

radicibus] Bake (Cic. De Legg. p. 460), cited by Halm, says that 'radices' refers to place, and not to civil condition. It is not easy to see how any one could give it a different meaning here.

vim prope justorum] 'vim' P. G. Halm (2) has written 'vi.' Manutius says that he calls 'prope justa' the 'arma,' by which Sulla drove out of the city twelve, as Velleius (ii. 19) has it, who were the movers of the civil disturbance, Marius and his son among them. He adds: "Nulla in cives arma justa sunt, sed illa prope justa." I am not quite sure if his meaning may be mistaken, nor am I quite sure what he does mean. But Cicero does not mean 'just' in our sense. He means a contest almost like a regular war.

profugisset, primo senile corpus paludibus occultasse demersum, deinde ad infimorum ac tenuissimorum hominum Minturnis misericordiam confugisse, inde navigio perparvo, quum omnes portus terrasque fugeret, in oras Africae desertissimas pervenisse. Atque ille vitam suam, ne inultus esset, ad incertissimam spem et ad rei publicae fatum reservavit: ego, qui, quemadmodum multi in senatu me absente dixerunt, periculo rei publicae vivebam, quique ob eam caussam consularibus litteris de senatus sententia exteris nationibus commendabar, nonne, si meam vitam deseruissem, rem publicam prodidissem? in qua quidem nunc me restituto vivit mecum simul exemplum fidei publicae. Quod si immortale retinetur, quis non intelligit immortalem hanc civitatem futuram?

XXIII. Nam externa bella regum, gentium, nationum jam pridem ita exstincta sunt, ut praeclare cum iis agamus quos pacatos esse patiamur. Denique ex bellica victoria non fere quemquam est invidia civium consecuta. Domesticis malis et audacium civium consiliis saepe est resistendum eorumque periculorum est in re

Minturnis] Mueller observes that Cicero tells this story almost in the same words in the De Fin. ii. 32; Pro Plancio, c. 10; In Pison. c. 19. But it is told in a very different way in the Quum Populo, c. 8, and the notes.

Wesenberg observes that if 'Minturnis' is right, it means 'men of Minturnae;' and he cites the Pro Cluentio, c. 13: "Fuit Avillius quidam Larino," but there is also a reading 'Larinas.' So we have in Caesar (B. G. iii. 20): "viris fortibus Tolosa, Carcasone et Narbone," which means 'men of Tolosa.' There is also the authority of inscriptious for this form of expression.

Wesenberg remarks that those to whose compassion Marius is said to have fled, came (pervenerunt) to Marius when he was sunk in the marshes, took him out, and put him in a vessel, and he refers to the Quum Populo, c. 8; Livy, Ep. 77; Schol. Vat. Ad Plancianam, § 26. He is inclined to take Passeratius' emendation of 'Minturnensium' for 'Minturnis.' But 'Minturnis' may mean 'at Minturnae,' as Seyffert suggests, who connects it with 'confugisse,' but in that case it ought to be 'Minturnas,' which would be a small alteration.

fatum] A conjecture of Pantagathus: P. G. have 'ratum,' G. '*raptum*' corr. m. 2. Garatoni proposed 'ad alium rei publicae statum.' Bake explains 'fatum' to mean that the return of Marius was attended with the slaughter and proscription of the 'boni.' Cicero lived 'periculo rei publicae,' at the hazard of the state, for on his life depended the safety of the state.

consularibus litteris] Written by P. Lentulus consul, Pro Plancio, c. 32; In Pison. c. 15; and this oration, c. 60 (Garatoni secundum Ferratium).

exemplum fidei publicae.] Halm has several times cited the German version of Osiander, who seems to have a talent for misunderstanding his author: "es lebt mit mir ein Beispiel der Treue gegen den Staat;" "there lives with me an example of fidelity to the state;" whereas, as Halm says, it means that "as I have been restored, there lives together with myself an example of public integrity or good faith;" which would be an encouragement to others to serve their country well.

23. *Nam externa bella*] Halm compares In Cat. ii. 5, and De Lege Agrar. i. 9: "multa sunt occulta rei publicae vulnera, multa nefariorum civium perniciosa consilia: nullum externum periculum est, non rex, non gens ulla, non natio, pertimescenda est." Even the formidable Galli were humbled. Caesar was now in the third year of his victorious career in Gallia.—'praeclare cum iis agamus:' 'we treat them well, if we allow them to be quiet;' he means they were so completely beaten that they must be content if they are left quiet. Comp. Verr. ii. 3. c. 50: "intelliget secum esse actum pessime."

publica retinenda medicina; quam omnem, judices, perdidissetis, si meo interitu senatui populoque Romano doloris sui de me declarandi potestas esset erepta. Quare moneo vos, adolescentes, atque hoc meo jure praecipio, qui dignitatem, qui rem publicam, qui gloriam spectatis, ne, si quae vos aliquando necessitas ad rem publicam contra improbos cives defendendam vocabit, segniores sitis et recordatione mei casus a consiliis fortibus refugiatis. Primum non est periculum, ne quis umquam incidat in ejusmodi consules, praesertim si erit iis id quod debetur persolutum. Deinde numquam jam, ut spero, quisquam improbus consilio et auxilio bonorum se oppugnare rem publicam dicet illis tacentibus, nec armati exercitus terrorem opponet togatis; neque erit justa caussa ad portas sedenti imperatori, quare suum terrorem falso jactari opponique patiatur. Numquam enim erit tam oppressus senatus, ut ei ne supplicandi quidem ac lugendi sit potestas, tam captus equester ordo, ut equites Romani a consule relegentur. Quae quum omnia atque etiam multo alia majora, quae consulto praetereo, accidissent, videtis me tamen in meam pristinam dignitatem brevi tempore doloris interjecto rei publicae voce esse revocatum.

XXIV. Sed ut revertar ad illud, quod mihi in hac omni est oratione propositum, omnibus malis illo anno scelere consulum rem publicam esse confectam, primum illo ipso die, qui mihi funestus fuit, omnibus bonis luctuosus, quum ego me e complexu patriae conspectuque vestro eripuissem et metu vestri periculi, non mei, furori hominis, sceleri, perfidiae, telis minisque cessissem, patriamque, quae mihi erat carissima, propter ipsius patriae caritatem reliquissem; quum meum illum casum tam horribilem, tam gravem, tam repentinum non solum homines, sed tecta urbis ac templa luge-

medicina;] The 'medicina' is the cure which consists in having honest citizens to protect the state, and in protecting such citizens, himself and Sestius, from the attacks of the bad.

meo jure] A common form in Cicero. "I have good right to give you this advice;" for he was a great example. See Pro S. Rosc. Am. c. 47, 'meo jure;' Pro Caecina, c. 9.

ejusmodi consules,] Such consuls as Piso and Gabinius, 'especially if they should get their due;' should be punished.—'bonorum:' Caesar, Pompeius, and Crassus.—'ad portas sedenti:' Caesar "quod eatenus ante portas cum exercitu permanserit, quatenus in exsilium Cicero discederet" (Schol. quoted by Halm). The old story about the army at the gates; which army was not there, nor does Cicero ever say that it was (Quum Senatui, c. 13).

Numquam enim] P. G., 'numquam denique,' Garatoni, Madvig, Halm. He has said 'Primum,' 'Deinde,' and now it is supposed that he should say 'Denique.' But 'enim' is the right word. He adds, "For never will the senate be so crushed as not to have even the power of intreating and showing its sorrow;" which explains the preceding sentence.

captus] 'Taken,' means held fast like a prisoner, deprived of power. He alludes to the case of L. Lamia, says Manutius.—'brevi tempore:' his exile lasted about seventeen months.

rent, nemo vestrum forum, nemo curiam, nemo lucem adspicere vellet; illo, inquam, ipso die, die dico? immo hora atque etiam puncto temporis eodem mihi reique publicae pernicies, Gabinio et Pisoni provincia rogata est. Pro dii immortales, custodes et conservatores hujus urbis atque imperii! quaenam illa in re publica monstra, quae scelera vidistis! Civis erat expulsus, is qui rem publicam ex senatus auctoritate cum omnibus bonis defenderat, et expulsus non alio aliquo, sed eo ipso crimine. Erat autem expulsus sine judicio, vi, lapidibus, ferro, servitio denique concitato; lex erat lata vasto ac relicto foro et sicariis servisque tradito, et ea lex, quae ut ne ferretur, senatus fuerat veste mutata. Hac tanta perturbatione civitatis ne noctem quidem consules inter meum . . . et suam praedam interesse passi sunt: statim me perculso ad meum sanguinem hauriendum et spirante etiam re publica ad ejus spolia detrahenda advolaverunt. Omitto gratulationes, epulas, partitionem

24. *provincia rogata est.*] Quum Senatui, c. 7; In Pisonem, c. 9.

Civis erat expulsus, is qui] Halm after the usual German fashion points it thus: "Civis erat expulsus is, qui." Punctuation is a perpetual difficulty, which I do not undertake to settle. But here there is a material difference between the two ways of punctuation, which I leave to the reader to discover.

vasto] Manutius wished to write 'vasto' in place of the common reading 'vastato;' which Halm (1) does not approve, and he says that 'vasto' is the German 'verödet,' desolated. Orelli objected to 'vasto' that an adjective could not very well go with two participles, to which Halm replies by showing that 'vastus' and 'desertus' often go together; and why should they not? Besides 'vastus' is as much a participle as 'desertus.' But Halm (2) has written 'vasto,' for which there is some little MSS. authority; and it is probably the genuine word.

. . .] "'*interitum*' Lud. Ian (Mürchner gelehrte Anzeigen 1847, Nro. 182) et Seyffertus: omisit P. G., '*casum*' Orelli; alii aliud substantivum suppleverunt (in P. super *meum* manu saec. XV vel XVI *discrimen* additum est)" (Halm). The reading of P. is 'inter meum discrimen et eorum praedam.' Madvig objects to 'discrimen' that it was not a 'discrimen, sed casus et calamitas jam inflicta.' But perhaps this objection has not much weight, for 'discrimen' sometimes means the highest degree of the danger of which we are speaking. As to the 'eorum' Madvig says: "in sententia secundaria, cujus aliud sit subjectum, *is* pro reflexivo substitui potest, in ipsa primaria sententia non potest. Itaque et illud, 'navem Verres poposcit, quae eum sequeretur,' et alia quae recte colligunt et defendunt, ab h. l. aliena sunt." If this observation is correct, it is very useful as a means of distinguishing those cases in which, as the critics say, we should expect a reflective pronoun and do not find it. Halm remarks that those passages which he himself collected in his note on the Pro Sulla, c. 29, are not sufficient to defend 'eorum' in this passage (see Pro Sulla, c. 29, and the note).

gratulationes,] Halm compares in Pison. c. 10: "Quid ego illorum dierum epulas, quid laetitiam et gratulationem tuam, quid cum tuis sordidissimis gregibus intemperantissimas perpotationes praedicem?" and c. 52 of this oration: on which Matthiae, quoted by Halm, observes that '*gratulatio*' is not [proprie] what we call so, but the testification of the joy, by which we thank the gods for a happy issue, and, accordingly, it is often joined with '*laetitia.*' The [proprie], as I understand it, is Halm's addition, which is necessary to correct the remark. 'Gratulari' is to thank any body, the gods among others, as Cato says (Letter to Cicero, Ad Fam. xv. 5): "si tu qua in re nihil fortuito sed summa tua ratione et continentia rei publicae provisum est diis immortalibus gratulari nos quam tibi referre acceptum mavis."

partitionem aerarii,] De Domo, c. 9: "tamen aerarium cum eo partitus es." Halm refers to In Pison. c. 35.

aerarii, beneficia, spem, promissa, praedam, laetitiam paucorum in luctu omnium. Vexabatur uxor mea; liberi ad necem quaerebantur; gener, et Piso gener, a Pisonis consulis pedibus supplex rejiciebatur; bona diripiebantur eaque ad consules deferebantur; domus ardebat in Palatio: consules epulabantur. Quod si meis incommodis laetabantur, urbis tamen periculo commoverentur.

XXV. Sed ut a mea caussa jam recedam, reliquas illius anni pestes recordamini:—sic enim facillime perspicietis, quantam vim omnium remediorum a magistratibus proximis res publica desiderarit;—legum multitudinem, quum earum quae latae sunt, tum vero, quae promulgatae fuerunt. Nam latae quidem sunt consulibus illis, tacentibus dicam? immo vero etiam approbantibus, ut censoria notio et gravissimum judicium sanctissimi magistratus de re publica tolleretur; ut collegia non modo illa vetera contra senatus consultum restituerentur, sed ab uno gladiatore innumerabilia alia nova conscriberentur; ut remissis senis et trientibus quinta prope pars vectiga-

beneficia,] Graevius explains this to mean the centurionatus, tribunatus, and other military distinctions. The 'beneficia populi Romani' are the 'honores' which the Roman people confer by their votes.

Vexabatur uxor] She was dragged to the Tabula Valeria (Ad Fam. xiv. 2; Introduction to the spurious orations, p. 293).—'liberi ad necem.' Compare De Domo, c. 23.—'Piso gener:' Piso, Tullia's first husband, was now dead, and it seems that he died before Cicero returned to Rome (c. 31).

bona diripiebantur] Compare Quum Senatui, c. 7; De Domo, c. 24; and In Pisonem, c. 11.

25. *a magistratibus proximis*] The tribunes of B.C. 57, Sestius and Milo, and the consuls P. Cornelius Lentulus and Q. Metellus Nepos. — 'legum multitudinem:' "Abrami among other things aptly compared Tacit. Ann. iii. 27: 'et corruptissima re publica plurimae leges,'" (Halm). There is no aptness at all, as any one will see by looking at Tacitus.

latae . . . promulgatae] Some Leges, as Cicero says, were 'promulgatae;' public notice was given of them in the usual form, and yet they were not carried. He does not tell us why they were not carried, but the critics must find it out. It is certainly quite immaterial, and we cannot tell any further than Cicero has told us (c. 31).

censoria notio] "'*ut censoria notio*' habet A., '*notio*' A. G. P., 'notatio' edd. vett." (Halm). Either word may do, for 'notio' has sometimes the meaning of 'cognitio' (De Domo, c. 13). Halm observes that 'censoria notatio' occurs in a fragment of Cicero, De Rep. iv. 10, 10. But 'censorium judicium' occurs in the De Prov. Cons. c. 19, and 'notio censoria' in the In Pison. c. 5. Asconius, In Pison. c. 4: "quartam (legem tulit P. Clodius trib. pl.) ne quem censores in senatu legendo praeterirent neve qua ignominia afficerent, nisi qui apud eos accusatus et utriusque censoris sententia damnatus esset." See Vol. II. Pro Cluentio, c. 42, note on 'subscriberent.'—'collegia:' see c. 15.

senis] A. G. P., 'semissibus' Orelli. The Scholiast had 'senis et trientibus,' or $6\frac{1}{3}$ asses, for he says: "Ante quidem (C.) Gracchus legem tulerat ut populus pro frumento quod sibi publice daretur, in singulos modios senos aeris et trientes pretii nomine exsolveret. Sed hic anno suo P. frumentariam legem tulit ut gratuito populus acciperet. Per hoc igitur ab eo deminuta vectigalia criminatur." In Livy's Epit. (c. 60) in the common editions it stands "semisse et triente," where he is speaking of C. Gracchus' Lex; but this would have been almost a gratuitous distribution of corn, and the proposal of Clodius to give it would have been no great change, nor could Cicero, as Halm remarks, have said that the remission of this price, $\frac{5}{6}$ of an as, could have caused a loss of one-fifth of the 'vectigalia.' Asconius (In Pison. § 9, ed. Orelli) has "ut frumentum populo quod antea *semis* aeris ac trientibus in singulos modios dabatur gratis daretur." Dureau

lium tolleretur; ut Gabinio pro illa sua Cilicia, quam sibi, si rem publicam prodidisset, pactus erat, Syria daretur, et uni helluoni bis de eadem re deliberandi et rogata . . . legem fieret provinciae commutandae.

XXVI. Mitto eam legem, quae omnia jura religionum, auspiciorum, potestatum, omnes leges quae sunt de jure et de tempore legum rogandarum, una rogatione delevit; mitto omnem domesticam labem: etiam exteras nationes illius anni furore conquassatas videbamus. Lege tribunicia Matris Magnae Pessinuntius ille sacerdos expulsus et spoliatus sacerdotio est, fanumque sanctissimarum atque antiquissimarum religionum venditum pecunia grandi Brogitaro, impuro homini atque indigno illa religione, praesertim quum ea sibi ille non colendi, sed violandi caussa appetisset; appellati reges a populo, qui id numquam ne a senatu quidem postulassent; reducti

de la Malle (Économie Politique des Romains, ii. 307) makes no difficulty about this passage of Livy (Ep. 60), where he is speaking of Gracchus' Law "for distributing wheat to the poor citizens almost gratuitously, that is, at the rate of $\frac{5}{6}$ of an as the modius." In another passage (i. p. 107), where he is speaking of the price of wheat at Rome, which he fixes according to certain data at somewhat less than 2 asses the modius, he adds with reference to this low price: "this is evidently again either the price of wheat in an abundant year or a price fixed for a gratuitous distribution like that of the $\frac{5}{6}$ as the modius established by the Sempronian Lex." But if we assume that Livy's Epitome is wrong, and that the price at which Gracchus sold corn to the poor was $6\frac{1}{3}$ asses, we have something intelligible. For if the price was about 12 asses the modius in Cicero's time, as both Boeckh and Dureau de la Malle are agreed, we learn that the poor got the grain for about half price in Gracchus' time, if the price of wheat was then 12 asses the modius, and we also learn how much the state was going to lose under Clodius' Lex by giving instead of selling at half price.

uni helluoni] It is Gabinius. The end of the chapter is defective. It stands thus in P.: "deliberandi et rogata . . . amlegem fieret provintiae commutandae," with a vacant space after 'rogata' of about nineteen letters. The blank is thus filled up in Halm (2): "deliberandi et rogata *lege utrique potestas contra Semproniam legem*."

26. *eam legem,*] The Lex which repealed the Lex Aelia et Fufia (c. 15). 'Jura religionum' are the rules of law about 'religiones,' 'auspicia,' and magisterial authority. Halm correctly remarks that 'potestatum' does not mean the magistrates here, as Bake supposes, but the magisterial powers (die Rechte dér veschiedenen Amtsgewalten).

Here we have the expression 'de jure legum . . . rogandarum,' 'about the legal forms of proposing Leges,' an expression in which there is no difficulty. See De Domo, c. 15, on the form 'de jure legum.'

domesticam labem:] All the mischief done at home, to which he opposes the mischief done abroad; and therefore 'domesticam labem' does not mean Clodius' private life, as Matthiae supposed. Manutius explained it correctly.

Lege tribunicia] That is, a 'plebiscitum.' He says this contemptuously, since he is speaking of matters that pertain to religion (Hotmann). Halm refers to the De Lege Agrar. ii. 8: "Leges enim sunt . . . tribuniciae."

Pessinus] See De Harusp. c. 26; and as to Brogitarus, De Harusp. c. 13. Pessinus was a great emporium, as Strabo says. The priests were of old a kind of princes, who enjoyed a great revenue from the priestly office. So things are still.

a populo,] Manutius remarks that kings received the title of 'rex,' not from the Populus, but from the Senate. These kings had not even asked the Senate to give them the title. Caesar (B. G. i. 35) says to the German Ariovistus, "quum in consulatu suo rex atque amicus a senatu appellatus esset." See De Harusp. c. 13.

exsules Byzantium condemnati tum quum indemnati cives e civitate ejiciebantur: rex Ptolemaeus, qui, si nondum erat ipse a senatu socius appellatus, erat tamen frater ejus regis, qui quum esset in eadem caussa, jam erat a senatu honorem istum consecutus, erat eodem genere isdemque majoribus, eadem vetustate societatis; denique erat rex, si nondum socius, at non hostis; pacatus, quietus, fretus imperio populi Romani regno paterno atque avito regali otio perfruebatur: de hoc nihil cogitante, nihil suspicante, eisdem operis suffragium ferentibus est rogatum, ut sedens cum purpura et sceptro et illis insignibus regiis praeconi publico subjiceretur, et imperante populo Romano, qui etiam bello victis regibus regna reddere consuevit, rex amicus nulla injuria commemorata, nullis rebus repetitis cum bonis omnibus publicaretur.

exsules] See De Domo, c. 20. Here he says that the Byzantines were not only exiles, but that they had been formally condemned (c. 39). Halm compares Verr. ii. 5. c. 6: "Perditae civitates . . . hos solent exitus exitiales habere, ut damnati restituantur in integrum, vincti solvantur, exules reducantur."

rex Ptolemaeus,] De Domo, c. 8. This is a long and rather confused sentence, which the critics have explained in various ways. No doubt the chief idea is 'Rex Ptolemaeus . . . est publicatus,' as Halm observes. 'Qui quum esset in eadem caussa' is the Ptolemaeus of Egypt, who, as Manutius says, "quum meritis in populum Romanum fratri Cyprio regi non praestaret, sed pari cum eo conditione esset." Halm cites Verr. ii. 5. § 53: "Mamertinis qui erant in eadem caussa:" whose case was the same.

Halm (2) writes 'illum honorem consecutus.' In (1), where he has 'honorem istum,' he observes that this is perhaps an oblique censure on Caesar and Clodius, who had fraudulently prevented the king of Cyprus from receiving the title which his brother had got through Caesar's favour (B. C. iii. 107) during his consulship, B.C. 59.

nullis rebus repetitis] "Without making any demand for restitution or compensation." Halm quotes from Abrami: "Itaque bella et tarde et magna licentia [Niebuhr, *diligentia*] suscipiebant: quod bellum nullum nisi pium putabant geri oportere: priusquam indicerent bellum iis a quibus injurias factas sciebant, fetiales legatos res repetitum mittebant quattuor quos oratores vocabant" (Varr. apud Non. p. 529, Merc.). It was the old fashion to demand satisfaction (res repetere) from an enemy for any wrong before they proclaimed war. This was a part of the Jus Fetiale (Vol. I. Verr. ii. 5. c. 19). Halm refers to Osenbrueggen (De Jure Belli et Pacis Romanorum, Lipsiae, 1836). Osenbrueggen has collected, I suppose, all that can be said on the matter and referred to all the authorities; and his small treatise is useful. Livy (i. 32) refers the origin of the Jus Fetiale to the reign of Ancus.

publicaretur.] F. A. Wolf (De Domo, c. 8) had doubted about the expression 'publicare hominem,' whose mistake Klotz correctly reproved, vol. iii. p. 943. Cicero wrote so even in c. 27: add to this Florus (iii. 9) (Halm).—The passage of Florus proves nothing. It is true that Cicero says (c. 27) "vivus, ut aiunt . . . est publicatus." See De Domo, c. 8, and the note. If Klotz and Halm are right, this is an instance in which those who do not believe the De Domo to be Cicero's work are mistaken about the Latinity of this and the other spurious speeches; and, as I have remarked (p. 299), this may sometimes be the case. But we can easily see why Cicero may have used the expression here, even if it was not a common expression, for he was speaking of a very uncommon event, and it is not at all strange for a writer to make an expression to suit the occasion. This argument however is as good for the passage in the De Domo as for this; with this difference, that the expression is not the same in both. It is as unusual to say 'rex praeconi publico subjectus est,' as to say 'rex publicatus est.' But in these passages it is 'rex cum bonis omnibus publicaretur,' 'rex cum victu ac vestitu suo publicatus;' and the addition of the 'bona,' and the 'victus ac vestitus' makes the ex-

XXVII. Multa acerba, multa turpia, multa turbulenta habuit ille annus; tamen illi sceleri, quod in me illorum immanitas edidit, haud scio an recte hoc proximum esse dicam. Antiochum Magnum illum majores nostri magna belli contentione terra marique superatum intra montem Taurum regnare jusserunt: Asiam, qua illum multarunt, Attalo ut is regnaret in ea condonaverunt. Cum Armeniorum rege Tigrane grave bellum perdiuturnumque gessimus, quum ille injuriis in socios nostros inferendis bello prope nos lacessisset. Hic et ipse per se vehemens fuit et acerrimum hostem hujus imperii Mithridatem pulsum Ponto opibus suis regnoque defendit, et ab L. Lucullo, summo viro atque imperatore, pulsus animo tamen hostili cum reliquis suis copiis in pristina mente mansit. Hunc Cn. Pompeius, quum in suis castris supplicem abjectum vidisset, erexit atque insigne regium, quod ille de suo capite abjecerat, reposuit et certis rebus imperatis regnare jussit, nec minus et sibi et huic imperio gloriosum putavit constitutum a se regem quam constrictum videri. . . . tulit, gessit, qui et ipse hostis fuit populi Romani et acerrimum hostem in regnum recepit,

pression very different from that in the De Domo, as I think.

27. *dicam.*] G., 'dicamus,' P., Halm (2).

Antiochum Magnum] This was the Syrian king who was defeated at Magnesia near Sipylus by L. Scipio B.C. 190 (Livy 37. c. 37, 45; 38. c. 38). The terms imposed on Antiochus were: "excedito urbibus, agris, vicis, castellis cis Taurum montem usque ad Tanaim amnem et a valle Tauri usque ad juga qua in Lycaoniam vergit." Attalus I. of Pergamum, the ally of the Romans against Antiochus, died B.C. 197. He was succeeded by Eumenes II., to whom the Romans after the end of the war with Antiochus gave both the Phrygias, Mysia, and other parts of Asia (Livy 38. c. 39). Gellius (xii. 13), quoted by Halm, cites this passage, 'Antiochum Magnum . . . regnare jusserunt,' with this remark: "qui regnat intra montem Taurum non solum in monte Tauro regnat, sed in his etiam regionibus quae Tauro monte clauduntur."

Tigrane] There is something about him in the De Imp. Cn. Pompeii (c. 9, Vol. II.). The war with Tigranes did not last long, for he was defeated in one battle. —'bellum nuper ipsi diuturnumque,' Halm (2). G. has 'bellum perdiuturnumque.' But the text in this passage is doubtful. —'insigne regium:' when Pompeius entered Armenia, Tigranes came to meet him on horseback, but he was met near the camp by two lictors who ordered him to dismount. "Tigranes obeyed their orders, and taking off his sword presented it to them; and finally, when Pompeius came towards him, pulling off his cittaris he hastened to lay it before his feet, and what was most humiliating of all, to throw himself down on his knees. But Pompeius prevented this by laying hold of his right hand and drawing the king towards him" (Plutarch, Pompeius, c. 34).

tulit, gessit,] "Postulat sententia, ut pro *tulit, gessit* reponatur: *Tigranes igitur* vel *igitur is*. Sed quoniam odi conjecturas, quae a litterarum similitudine discedunt, opem vett. librorum expectandam censeo; alioqui nihil tentandum" (Manutius); a sensible remark. — 'acerrimum hostem:' Tigranes received king Mithridates, as he means by the words 'opibus suis regnoque defendit.' "Now up to this time Tigranes had not deigned to see Mithridates, nor to speak to him, though Mithridates was allied to him by marriage, and had been ejected from so great a kingdom; but in a degrading and insulting manner, he had allowed Mithridates to be far removed from him, and in a manner kept a prisoner in his abode, which was a marshy and unhealthy place. However, he now sent for him with demonstrations of respect and affection" (Plutarch, Lucullus, c. 22).

qui conflixit, qui signa contulit, qui de imperio paene certavit, regnat hodie et amicitiae nomen ac societatis, quod armis violarat, id precibus est consecutus: ille Cyprius miser, qui semper amicus, semper socius fuit, de quo nulla umquam suspicio durior aut ad senatum aut ad imperatores allata nostros est, vivus, ut aiunt, est et videns cum victu ac vestitu suo publicatus. En, cur ceteri reges stabilem esse suam fortunam arbitrentur, quum hoc illius funesti anni prodito exemplo videant per tribunum aliquem et sexcentas operas se fortunis spoliari et regno omni posse nudari.

XXVIII. At etiam eo negotio M. Catonis splendorem maculare voluerunt, ignari quid gravitas, quid integritas, quid magnitudo animi, quid denique virtus valeret, quae in tempestate saeva quieta est et lucet in tenebris et pulsa loco manet tamen atque haeret in patria splendetque per sese semper neque alienis umquam sordibus obsolescit. Non illi ornandum M. Catonem, sed relegandum, nec illi committendum illud negotium, sed imponendum putaverunt, qui in contione palam dixerint linguam se evellisse M. Catoni, quae semper contra extraordinarias potestates libera fuisset. Sentient, ut spero,

id precibus est consecutus:] Halm makes a remark on the addition of 'id' after the relative clause. It is a common form of expressing a thing more emphatically.

vivus . . . est publicatus.] Halm tells us to observe how the language is purposely adapted to excite commiseration; and he adds: "non regnum, ait, sed quod gravius est, regem ipsum tamquam vile mancipium fuisse publicatum." This is a very good explanation of the expression 'vivus . . . publicatus est,' and convinces me that Cicero made it for the occasion. He afterwards uses the proper expression (c. 29), 'regni publicati.'

vivus, ut aiunt, et videns] 'Ut aiunt' is a common way of referring to a proverbial expression. Manutius compares Terence, Eunuch, i. 1. 28.

"—— et prudens, sciens,
Vivus, vidensque pereo."

Cicero, Pro P. Quintio, c. 15: "Huic acerbissimum vivo videntique funus ducitur;" and Lucretius, iii. 1059:

"Tu vero dubitabis et indignabere obire,
Mortua cui vita est prope jam vivo atque videnti."

These and some other passages are cited by Abrami; on which Halm, who is most just in giving every man his due, says that Lambinus (ad Lucr. iii. 1059) had already referred to most of them, and Abrami appears to have got them from him; and without acknowledgment, it seems. But perhaps he found them himself. Halm, after citing the passage Pro Quintio, c. 15, in the note of Abrami, cites the same chapter of the Pro Quintio, c. 15, in the next note for the expression "cujus . . . etiam victus vestitusque necessarius sub praeconem cum dedecore subjectus est."

sexcentas] or 'sescentas,' A. P. G. Ernesti says that six hundred means 'many,' but this passage requires the notion of 'few.'—It means 'few' here.

28. *maculare*] It was a dirty job that Cato had to do, and a man never comes clean out of one with all his excuses or his friends' for him. See De Domo, c. 8.—Cicero says that the virtuous man is never bedaubed by other people's filth. But he is, if he touches it. Halm quotes Horace (Carm. ii. 6) on the occasion, "caret obsoleti Sordibus tecti."

linguam se evellisse] Halm cites a long note from Ferratius, which begins "Quam ob causam hoc praedicabat Clodius?"—How could Cato ever raise his voice against 'extraordinariae potestates' after taking this commission to restore the Byzantine exiles and do this job about the Cyprian king? See De Domo, c. 8, 9, and the notes. The Declamator understood well enough the consequence to Cato of accepting such a commission.

Sentient,] Abrami supposes that he threatens the 'improbi' with Cato's return;

brevi tempore manere libertatem illam, atque hoc etiam, si fieri potuerit, esse majorem, quod cum consulibus illis M. Cato, etiam quum jam desperasset aliquid auctoritate sua profici posse, tamen voce ipsa ac dolore pugnavit, et post meum discessum iis Pisonem verbis flens meum et rei publicae casum vexavit, ut illum hominem perditissimum atque impudentissimum paene jam provinciae poeniteret. Cur igitur rogationi paruit?—Quasi vero ille non in alias quoque leges, quas injuste rogatas putaret, jam ante juraverit! Non offert se ille istis temeritatibus, ut, quum rei publicae nihil prosit, se civi rem publicam privet. Consule me quum esset designatus tribunus plebis, obtulit in discrimen vitam suam; dixit eam sententiam cujus invidiam capitis periculo sibi praestandam videbat; dixit vehementer, egit acriter, ea quae sensit prae se tulit; dux, auctor, actor rerum illarum fuit; non quo periculum suum non videret, sed in tanta rei publicae tempestate nihil sibi nisi de patriae periculis cogitandum putabat.

XXIX. Consecutus est ipsius tribunatus. Quid ego de singulari magnitudine animi ejus ac de incredibili virtute dicam? Meministis illum diem, quum templo a collega occupato, nobis omnibus

but Halm observes that Cato was now at Rome.—'post meum discessum:' Manutius observes that Plutarch (Cat. Min. c. 34) must be mistaken, when he tells us that Cato was sent to Cyprus after Cicero left Rome. Plutarch says: "Clodius did not expect to be able to put down Cicero so long as Cato was at Rome;" and so he contrived to impose this Cyprian commission on him.

Cur igitur rogationi paruit?] That is the question. Why did he go? The answer is that he had already done that which he would rather not have done; and there was no harm in doing a little more of the same kind. "Significat autem Julias C. Caesaris leges in quas quum diu perseverasset non jurare, ad extremum coactus suasionibus plurimorum videtur accommodasse consensum" (Schol.). Halm refers to Plutarch (Cat. Min. c. 32), a passage which explains this. He is speaking of Caesar's Agrarian Lex, which contained "a clause to compel all the Senate to swear that they would maintain the law and give their aid against any one who should act contrary to it, and they enacted heavy penalties against those who did not swear. All swore to maintain the law under compulsion, bearing in mind what befel Metellus of old, whom the people allowed to be driven out of Italy because he would not swear to observe a like enactment.—But the person who most persuaded and induced Cato to take the oath was Cicero the orator, who argued and urged that perhaps it was not even right for him to think that he was the only man who ought to refuse obedience to what had been determined by the common voice; and when it was impossible to undo what had been done, it was altogether senseless and mad to have no regard for himself; and of all evils, he argued, it was the greatest to give up and surrender the state, to the interest of which all his actions were directed, to those who were plotting against it, as if he were glad to be released from all struggles in its behalf." This explains 'Non offert se istis temeritatibus,' &c.

designatus trib. pl.] On the famous Nonae Decembres (Pro Flacco, c. 40). Cato was 'designatus' at this time. He entered on the duties of his office on the IV. Id. Dec. according to the custom at that time (Manutius). See the Introduction to the orations against Catilina, and the fourth oration against Catilina. Halm refers to the passage in Velleius, ii. 35, about Cato.

29. *templo*] Q. Metellus Nepos, tr. pl., was endeavouring to get many Leges enacted by violent means, and particularly two Leges; one of which was to procure the election of Pompeius to the consulship, though he was then conducting the war against Mithridates, and the other to summon him to return to Italy to protect it against the arms of Catilina. Most of the

de vita ejus viri et civis timentibus, ipse animo firmissimo venit in templum, et clamorem hominum auctoritate, impetum improborum virtute sedavit. Adiit tum periculum, sed adiit ob eam caussam, quae quanta fuerit, jam mihi dicere non est necesse. At si isti Cypriae rogationi sceleratissimae non paruisset, haereret illa nihilo minus rei publicae turpitudo: regno enim jam publicato de ipso Catone erat nominatim rogatum. Quod ille si repudiasset, dubitatis quin ei vis esset allata, quum omnia acta illius anni per unum illum labefactari viderentur? Atque etiam hoc videbat: quoniam illa in re publica macula regni publicati maneret, quam nemo jam posset eluere, quod ex malis boni posset in rem publicam pervenire, id utilius esse per se conservari quam per alios. Atque ille, etiam si alia quapiam vi expelleretur illis temporibus ex hac urbe, facile pateretur. Etenim, qui superiore anno senatu caruisset, quo si tum

'nobilitas' opposed Metellus, and particularly his colleague Cato. Caesar, who was praetor (B.C. 62), sided with Metellus (Schol.).

Manutius tries to prove that this templum was the Rostra, for the Rostra were also called Templum (Liv. viii. 14). Halm thinks that it may be the temple of Castor, "castellum forensis latrocinii" (In Pison. c. 5). Plutarch (Cato Minor, c. 27) also says: "When Cato stopped and saw the temple of the Dioscuri surrounded by armed men and the steps guarded by gladiators, and Metellus himself with Caesar sitting above, he turned to his friends and said, 'O the daring and cowardly men, to collect such a force of soldiery against a single man unarmed and defenceless.'" Besides, as Halm observes, 'venit in templum' means what the words say, 'he went into the temple,' not on the Rostra.

ejus viri] 'talis viri' Halm (2); ejus viri' P². G; '** us viri' P¹.

sed adiit ob eam caussam,] "Prudentissime suppressit mentionem legum quas Metellus de Pompeio tulerat, ne ipsum scil. offenderet, de quo latae videbantur" (Schol.). Halm adds the following from Abrami: "Bene addidit *ob eam causam* etc.; nam nisi honesta causa subsit adeundi periculi, nulla est fortitudo." But this is not the explanation. The Scholiast has given it. Besides, is there no 'fortitudo' in a bad cause? 'Fortitudo' is made perfect by 'temperantia' (Tuscul. v. 14). It is worse than waste of time to copy such a note. When it is once put in circulation, it may be useful to warn people against the false coin. What Halm adds is more to the purpose: Cicero wished to show that Cato could and did resist unjust Rogationes when he thought that his country's weal required it. And so this is the apology which he dexterously prepares for Cato's Cyprian mission, which he now comes to. 'At si isti,' &c.

per unum illum] Cato, as Ferratius says, the only man who seemed to be able to resist Clodius. Why did he not resist then?

conservari quam per alios] Cato saw that the Cyprian king was to be plundered. The crime was to be committed. But some good would come out of it: the treasury would get all that the king had, and Cato thought it better for the plunder to be saved by himself than by others. Some of the critics think that an infinitive verb has been lost after 'per alios,' such a word as 'diripi,' 'amitti,' and the like. Each man must judge for himself. When Cicero says that Cato thought it was better for him to look after the plunder than for others, nobody ought to find it obscure.

superiore anno] B.C. 59, in Caesar's consulship, during which, as he says, Cato did not come to the meetings of the Senate. Plutarch (Cat. Min. c. 32, 33) has something about Cato's opposition to Caesar in his consulship. Cicero tells us plainly in what follows that he was driven out of Rome before Cato went on his honourable mission (c. 28). Cato might have followed his friend's example, and so have avoided the scandal of the Cyprian business.

He makes Cato's case and his own very much alike. Cato was the man who turned the wavering Senate to the bold and wholesome counsel of getting rid of the conspirators, whom they had caught; and the attack on Cicero the consul of that year was a condemnation of Cato's vote about the conspirators.

veniret, me tamen socium suorum in re publica consiliorum videre posset, is aequo animo tum, me expulso et meo nomine quum universo senatu, tum sententia sua condemnata, in hac urbe esse posset? Ille vero eidem tempori cui nos, ejusdem furori et isdem consulibus, isdem minis, insidiis, periculis cessit. Luctum nos hausimus majorem, dolorem ille animi non minorem.

XXX. His de tot tantisque injuriis in socios, in reges, in civitates liberas consulum querela esse debuit: in ejus magistratus tutela reges atque exterae nationes semper fuerunt. Ecquae vox umquam est audita consulum? quamquam quis audiret, si maxime queri vellent? De Cyprio rege quererentur? qui me civem nullo meo crimine, patriae nomine laborantem non modo stantem non defenderunt, sed ne jacentem quidem protexerunt. Cesseram, si alienam a me plebem fuisse vultis, quae non fuit, invidiae; si commoveri omnia videbantur, tempori; si vis suberat, armis; si societas magistratuum, pactioni; si periculum civium, rei publicae. Cur, quum de capite civis—non disputo cujusmodi civis—et de bonis proscriptio ferretur, quum et sacratis legibus et duodecim tabulis sanctum esset, ut neve privilegium irrogari liceret neve de capite nisi comitiis centuriatis rogari, nulla vox est audita consulum, constitutumque est illo anno, quantum in illis duabus hujus imperii pestibus fuit, jure posse per operas concitatas quemvis civem nominatim tribuni plebis concilio ex civitate exturbari? Quae vero promulgata illo anno fuerint, quae promissa multis, quae conscripta, quae sperata, quae cogitata, quid dicam? Qui locus orbis terrae jam non erat alicui destinatus? cujus negotii publici cogitari, optari, fingi curatio potuit, quae non esset attributa atque dis-

30. *patriae nomine laborantem*] 'Struggling with danger for my country's cause'—for what he had done. The 'pactioni' is the bargain between Clodius and the consuls Gabinius and Piso. The pointing was 'si societas, magistratuum pactioni;' but Halm (2), following C. F. Hermann, has it 'si societas magistratuum, pactioni.'

privilegium] De Domo, c. 17, and Quum Senatui, c. 11, and the notes.—'concilio' P. G.: the common reading is 'consilio.' 'Concilium' is a meeting of the people; as in the In Vatin. c. 6: "num quando tibi moram attulerit, quominus concilium advocares legemque ferres, quod eo die scires de caelo esse servatum." There is also the passage in Gellius (xv. 27) where we have the definition of Laelius Felix: "is qui non universum populum, sed partem aliquam adesse jubet, non comitia, sed concilium edicere jubet."

orbis terrae] 'orbi terrae' P. and Halm (2) on the recommendation of Klotz.

curatio] Hervag. Nauger. 'procuratio,' on which Orelli remarks, that in Cicero's time 'procuratio' was a word more frequently applied to matters that concern private persons, and that the superintendence of public matters, as buildings, roads, and the like, was called 'curatio.' Yet Halm remarks that it has been proved by clear evidence that Cicero uses 'procuratio' also in this last sense. There is an example in the De Harusp. c. 20: "frumentaria procuratione;" and in c. 14 the same writer uses 'curatio.'

discripta?] P., 'descripta' G. Halm has 'descripta' in (1): but in (2) he writes

cripta? quod genus imperii aut quae provincia, quae ratio aut flandae aut conflandae pecuniae non reperiebatur? quae regio orave terrarum erat latior, in qua non regnum aliquod statueretur? quis autem rex erat, qui illo anno non aut emendum sibi quod non habebat, aut redimendum quod habebat, arbitraretur? quis provinciam, quis pecuniam, quis legationem a senatu petebat? Damnatis de vi restitutio, consulatus petitio ipsi illi populari sacerdoti comparabatur. Haec gemebant boni, sperabant improbi, agebat tribunus plebis, consules adjuvabant.

XXXI. Hic aliquando, serius quam ipse vellet, Cn. Pompeius, invitissimis iis, qui mentem optimi ac fortissimi viri suis consiliis fictisque terroribus a defensione meae salutis averterant, excitavit illam suam non sopitam, sed suspicione aliqua retardatam consuetudinem rei publicae bene gerendae. Non est passus ille vir,

'discripta.' We have thus in one instance secured the genuine word.

quae provincia,] P. has 'provintia.' We have now got many examples of this form. Halm thinks it necessary to tell us that 'provincia' in this passage means function, occupation, or public employment, and that none of the commentators appear to have seen this; which is singular, if it is true, for the context makes it quite plain.

ratio aut flandae aut conflandae] P. G. The old editions have 'ratio auferendae aut conflandae.' Halm observes that Klotz is the only recent editor who has taken the reading which is in the text: which he translates "welche Art und Weise Geld zu schlagen und zusammenzuschlagen ward nicht ausfindig gemacht?" Lambinus objected to 'aut flandae,' that Cicero is not speaking "de ratione pecuniae flandae, seu potius auri argentive flandi, sed de ratione pecuniae conciliandae et conquirendae et undique corradendae." Two passages are cited to show that 'flandae pecuniae' may be right (Ulp. Dig. 48. 10. 9): "argenteos nummos adulterinos flaverit," and Varro in Gellius ii. 10: "flata signataque pecunia;" in which passage he also informs us that what the Romans named 'thesauri,' taking a Greek word, the Prisci Latini named "flavissae, quod in eos non rude aes argentumque, sed flata signataque pecunia conderetur." Halm however raises a difficulty about the translation, for, as he observes, since 'flare' and 'conflare' are terms applied to melted metals, it seems inconsistent for one word to be used by the orator in its literal sense and the other in its metaphorical. 'Flare metallum,' he says, is to 'melt metal,' and 'flare pecuniam,' to make coin by melting metal: and on the other hand 'conflare metalla' means either to melt various metals into one mass, or to melt metal which has already a shape, and to change it to another form (Metall einschmelzen): thus, he adds, the Romans said 'vasa, statuae,' and such things 'conflantur.' After this preparation Halm adds that a more difficult question arises, in what sense these two words are used metaphorically, for it seems plain to him that both are used metaphorically. But this is enough. After this we either know the meaning or we do not; and no more need be said.

redimendum] The context explains it: he must pay for being allowed to keep what he had.

Damnatis de vi restitutio,] 'in integrum.' Garatoni supposes that the partizans of Catilina are meant, who are mentioned in the oration Pro Sulla, c. 2, who being convicted (B.C. 62) under the Lex Plautia de vi left the country. Even in B.C. 59 there was talk about restoring these men (Pro Flacco, c. 38) (Halm).

31. *aliquando,*] Halm prefers this to the reading 'aliquanto,' and he thinks that it is recommended by the passage in the De Domo (c. 10), which, he says, is copied from this: "Sed excitatus aliquando."

ille vir,] He runs out, as usual, into extravagant praise of Pompeius, whose great deeds are commemorated in the oration De Imp. Cn. Pompeii, c. 10, 11, and the notes, &c.—'etiam servitia:' Pompeius returning from Spain fell in with the slaves whom Crassus had dispersed and cut them to pieces. Manutius explains 'etiam' thus:

qui sceleratissimos cives, qui acerrimos hostes, qui maximas nationes, qui reges, qui gentes feras atque inauditas, qui praedonum infinitam manum, qui etiam servitia virtute victoriaque domuisset, qui omnibus bellis terra marique compressis imperium populi Romani orbis terrarum terminis definisset, rem publicam everti scelere paucorum, quam ipse non solum consiliis, sed etiam sanguine suo saepe servasset: accessit ad caussam publicam; restitit auctoritate sua reliquis rebus, questus est de praeteritis. Fieri quaedam ad meliorem spem inclinatio visa est. Decrevit senatus frequens de meo reditu Kalendis Juniis, dissentiente nullo, referente L. Ninnio, cujus in mea caussa numquam fides virtusque contremuit. Intercessit Ligus iste nescio qui, additamentum inimicorum meorum. Res erat et caussa nostra eo jam loci, ut erigere oculos et vivere videretur. Quisquis erat, qui aliquam partem in meo luctu sceleris Clodiani attigisset, quocunque venerat, quod judicium cunque subierat, damnabatur: inveniebatur nemo qui se suffragium de me tulisse confiteretur. Decesserat ex Asia frater meus magno squalore, sed multo etiam majore maerore. Huic ad urbem venienti tota obviam civitas cum lacrimis gemituque processerat; loquebatur liberius senatus; concurrebant equites Romani; Piso ille, gener meus, cui fructum pietatis suae neque ex me neque a populo Romano ferre licuit, a propinquo suo socerum suum flagitabat: omnia senatus rejiciebat, nisi de me primum consules rettulissent.

XXXII. Quae quum res jam manibus teneretur et quum con-

"he said 'etiam,' as if contrary to common opinion, since men think otherwise, because the Servile war was finished by Crassus."

orbis terrarum terminis] In Cat. iii. 11, and the notes; in Cat. iv. 10 (Halm).—'sanguine suo:' an allusion, as Manutius supposes, to the battle with Sertorius on the Sucro in Spain (Plutarch, Sertorius, c. 19; Pompeius, c. 19; Appian, B. C. i. 110: *ἐτρώθη δόρατι ἐς τὸν μηρὸν ἐπικινδύνως ὁ Πομπήϊος*).

auctoritate] The opposition of 'auctoritas,' character, influence, and 'potestas,' authority of office, is well shown in a passage cited by Halm: "ille designatus consul, quum quidam tribunus pl. suo auxilio magistros ludos contra SCtum facere jussisset, privatus fieri vetuit, atque id, quod nondum potestate poterat, obtinuit auctoritate" (In Pison. c. 4).

L. Ninnio,] Introduction to the four spurious orations.—'Ligus iste:' Aelius Ligur, one of the tribuni plebis (De Domo, c. 19; De Harusp. c. 3, and the note). The 'additamentum' is explained by the next chapter, "unus me absente defluxit."

eo loci,] 'in that state or condition,' as in Tacit. Ann. xiv. 62: "non eo loci res suas agi ut de matrimonio certet." Hand (Turs. ii. p. 409) remarks that the expression is 'eo loci,' 'eodem loci,' 'hoc loci,' but the ablative pronoun alone is not used thus (Halm).

quocunque venerat,] See De Domo, c. 19, and the note.

Decesserat] In B.C. 58 Quintus left his province of Asia, which he had governed for three years (Ad Q. Fr. i. 1).—'cui fructum:' See c. 24, note on Piso's death. He was a kinsman of Piso, one of the consuls of B.C. 58.—'rettulissent:' the word used to express the consuls' bringing a matter before the Senate. Garatoni compares In Pison. c. 13: "quum, quacunque de re verbum facere coeperatis aut referre ad senatum, cunctus ordo reclamabat ostendebatque nihil esse vos acturos nisi prius de me rettulissetis."

32. *Quae quum res . . . dicebant; quum hoc*] He begins twice, first with 'Quae

sules provinciarum pactione libertatem omnem perdidissent, qui, quum in senatu privati ut de me sententias dicerent flagitabant, legem illi se Clodiam timere dicebant; quum hoc non possent jam diutius sustinere, initur consilium de interitu Cn. Pompeii: quo patefacto ferroque deprehenso ille inclusus domi tamdiu fuit, quamdiu inimicus meus in tribunatu. De meo reditu octo tribuni promulgaverunt. Ex quo intellectum est non mihi absenti crevisse amicos, in ea praesertim fortuna, in qua nonnulli etiam quos esse putaveram non erant; sed eos voluntatem semper eandem, libertatem non eandem semper habuisse. Nam ex novem tribunis, quos tunc habueram, unus me absente defluxit, qui cognomen sibi ex Aeliorum imaginibus arripuit, quo magis nationis ejus esse quam generis videretur. Hoc igitur anno magistratibus novis designatis, quum omnes boni omnem spem melioris status in eorum fidem convertissent, princeps P. Lentulus auctoritate ac sententia sua Pisone et Gabinio repugnantibus caussam suscepit tribunisque plebis octo referentibus praestantissimam de me sententiam dixit. Qui quum ad gloriam suam atque ad amplissimi beneficii gratiam magis pertinere videret caussam illam integram ad suum consulatum reservari, tamen rem talem per alios citius quam per se tardius confici malebat.

quum res . . . dicebant,' and then he begins again, 'quum hoc . . . sustinere,' after which comes the corresponding and concluding part ' initur consilium.'

qui . . . illi . . . dicebant;] Madvig explains this—The ' privati ' demanded permission to deliver their opinion, as if it were ' flagitabant ut sententias dicere liceret,' as in Livy iii. 39, "postulando ut de re publica liceret dicere;" for the senators could not deliver their opinions on any matter, unless the magistratus who had authority to summon the Senate brought a matter before them and asked their opinion. ' Illi ' comes after ' qui,' a repetition which is made because of the interposed words. There is an example in the De Oratore ii. 30; and others (Halm). But in the passage from the De Oratore there is a difference: "habere certos locos, qui ut litterae ad verbum scribendum, sic illi ad caussam explicandam statim occurrunt."

legem Clodiam] See Quum Senatui, c. 4, and the note. This Lex was the Lex which declared that no person should make a motion about Cicero's return (Ad Att. iii. 23.).

ferroque deprehenso] De Domo, c. 25; De Harusp. c. 23. The story of this attempt to assassinate Pompeius in Castor's temple is in the Pro Milone, c. 7, 14, and the note of Asconius; and In Pison. c. 12. —' non mihi :' Manutius, and the passage requires ' non :' '*nona* (*a* expuncta) *mihi*' P[1].

ex Aeliorum imaginibus] Compare Pro Cluentio, c. 26, where he is speaking of another Staienus, and the note on the Ligurian nation. He is making one of his usual plays on the man's cognomen Ligur, which was also the name of a Ligurian. C. F. Hermann in Vind. Lat. ep. ad Brutum, p. 31 (quoted by Halm), explains ' quo magis,' &c. thus: "quo tamen nihil amplius effecit quam ut qui id cognomen audirent, natione Ligurem, non Aeliorum cognatum existimarent." This is a true explanation. The form of the Latin sentence may be elliptical. As it stands ' quo . . . videretur ' does not express a purpose, but a consequence. We can say in a few words, and they express the full meaning, "by stealing a cognomen from the busts of the Aelii he got the reputation of belonging to the (Ligurian) nation, and not to the (Aelian) family."

Hoc igitur anno] Piso and Gabinius were still consuls, B.C. 58; but P. Lentulus was consul designatus. The eight tribuni pl. moved this matter (Introduction to the three spurious orations).

XXXIII. Hoc interim tempore P. Sestius, judices, designatus iter ad C. Caesarem pro mea salute suscepit. Quid egerit, quantum profecerit, nihil ad caussam:—equidem existimo, si ille, ut arbitror, aequus nobis fuerit, nihil ab hoc profectum; sin iratior, non multum:—sed tamen sedulitatem atque integritatem hominis videtis. Ingredior jam in Sestii tribunatum:—nam hoc primum iter designatus rei publicae caussa suscepit: pertinere et ad concordiam civium putavit et ad perficiendi facultatem animum Caesaris a caussa non abhorrere:—abiit ille annus: respirasse homines videbantur, nondum re, sed spe rei publicae recuperandae. Ex-

33. *designatus*] 'judex designatus' G., 'tribunus designatus,' Car. Steph. prob. Garat. (Halm). 'Designatus' is probably a gloss. In B.C. 58 Caesar, after defeating the Helvetii and the German Ariovistus, crossed the Alps into Gallia Cisalpina to make his circuits ("ad conventus agendos," B. G. i. c. 54), and Sestius would find him at the close of the year in North Italy.

ut arbitror,] Orelli says that he signifies by this word 'se non arbitrari.'

Ingredior jam . . . tribunatum:] Schütz and Madvig thought that these words should be erased as having come from a rhetorical gloss 'ingreditur jam in Sestii tribunatum.' Others are of a different opinion. Spengel, cited by Halm, has a good remark here. He observes that at the end of c. 6 Cicero begins to speak of the tribuneship of P. Sestius, and says that he must tell all the shipwreck of the state in the preceding year; having done this in cc. 7—32, and having mentioned the journey of P. Sestius to Caesar when he was tribunus designatus, he now begins the history of his tribunate: 'Ingredior jam,' &c. This is a complete answer to the critics. This division into chapters spoils the author. If the division had been made by sensible men, this chapter would begin 'Ingredior jam in Sestii tribunatum.'

ad concordiam civium] It is said in the letter of Cicero to Lentulus (Ad Fam. i. 9), that Caesar did not oppose Cicero's return: "sese quae de mea salute egisset, voluntate Caesaris egisse ipsum meum fratrem testatus est" (Manutius).

abiit ille annus . . . optimas perdidissemus.] Spengel, cited by Halm, thinks that these words should be transposed and placed after 'de tabula sustulit;' "because neither the tribunes entered on their office on the Calends of January, nor did the consuls retire from office before that day." Maehly assumes that in this year the tribuni plebis entered on their office after the time fixed by law. Halm asks for the proof of this. If Gabinius and Piso left Rome before the tribuni plebis entered on their office, Cicero's narrative will be in order, for he might say that this year was really over when the two consuls left Rome for their provinces, though the first of January had not come. Cicero's narrative ought to mean that the consuls left Rome before the end of the year.

sed spe rei publicae recuperandae.] 'sed spe re publica recuperata' Lambinus, which Madvig approves for this reason: "Primum *re* et *spe* ita inter se referuntur constanti usu, ut conjunctio *spe rei publicae recuperandae* (unam constituens notionem oppositam vocabulo *re*) ferri nequeat; deinde, ut haec isto modo intelligamus, quo pertinet nudum illud *re?* nam *nondum re respirare* nihil est. Sane *re* (*in der Wirklichkeit*) respirabant, sed respirabant ob spem, nondum re effecta." Halm rejects this correction, and keeps the text, which he explains: "men were beginning to think that they had recovered their breath, not that they really had restored, but because they had hopes of restoring the state." No doubt *re* and *spe* are opposed; but this does not prevent the orator from telling us what the hope was. That is the answer to the first objection. And if we can understand the passage so, and are asked what the bare 're' means, because 'nondum re respirare' means nothing, the answer is, that it is not 'nondum re respirare,' but 'respirasse videbantur,' a form of expression which is short of positive affirmation; which is one of the most common forms of expression, and we may correct it by something else. Cicero does it here by adding 'nondum re,' 'not yet really,' but only in hope; and then he tells us what the hope is. The objection comes from a man of authority, or it would not be worth repeating; but many of Madvig's criticisms are of the same kind. The emendation of

ierunt malis ominibus atque exsecrationibus duo vulturii paludati: quibus utinam ipsis evenissent ea quae tum homines precabantur! neque nos provinciam Macedoniam cum exercitu neque equitatum in Syria et cohortes optimas perdidissemus. Ineunt magistratum tribuni plebis, qui omnes se de me promulgaturos confirmarant. Ex iis princeps emitur ab inimicis meis is quem homines in luctu irridentes Gracchum vocabant; quoniam id etiam fatum civitatis fuit, ut illa ex vepreculis extracta nitedula rem publicam conaretur arrodere. Alter vero, non ille Serranus ab aratro, sed ex deserto Gavii † olaeliore a calatis Gaviis in Calatinos Atilios insitus, subito, nominibus in tabulas relatis, nomen suum de tabula

Lambinus is absurd. If they did breathe again, having not yet in fact, but only in hope restored the state, what is the hope? Why, it is what Cicero means to say, 'spes rei publicae recuperandae;' and accordingly he says it.

malis ominibus] They left Rome for their provinces, Piso for Macedonia and Gabinius for Syria. Halm refers to the In Pisonem, c. 14: "an quod tibi proficiscenti evenit, ut omnes exsecrarentur, male precarentur, unam tibi illam viam et perpetuam esse vellent?" When M. Crassus (Plutarch, Crassus, c. 16) left Rome for his eastern expedition, he was cursed in all due form.

emitur . . . is] Supposed to be Q. Numerius Rufus, one of the tribuni pl. who obstinately opposed Cicero's recall (Schol.). Nobody can tell why so worthless a fellow was named Gracchus. Halm suggests that the man's voice was small, and reminded people of a 'graculus,' and so they called him Gracchus. He calls him 'nitedula,' a little mouse or weasel. Servius (Virg. Georg. i. 181) has: "nitela, mus agrestis rubeus, cujus meminit Cicero in Sestiana." The word 'nitedula' is only found here and in Arnobius adv. Nat. ii. c. 47, but the reading 'in cod. Arnobii' is 'nitelula.' But 'nitedula' is proved by the MSS. to be the true reading and by the analogy of like forms (Halm). Klotz says that he was called Gracchus not on account of any relationship to the family of the Gracchi, but because he pretended to defend the people's rights like the Gracchi; as Orelli had explained it.

rem publicam . . . arrodere.] The 'nitedula' nibbles at the Res Publica. I do not know whether he means that he gets at the money, as men do when they can, or whether he says 'nibble at the Res Publica' without meaning any thing precise. Abrami on the occasion quotes a passage from Capitolinus' Life of Antoninus Pius: "Salaria multis subtraxit, quos otiosos videbat accipere, dicens nihil esse sordidius quam si rem publicam ii arroderent, qui nihil in eam suo labore conferrent." The good emperor was right, and has set us a good example. What is more odious than a fellow who feeds on the state and does nothing for it?

Serranus] 'Not he of the plough,' the man who left his fields to command the armies of Rome, C. Atilius Calatinus consul B.C. 257 (Pro Rosc. Am. c. 18). Atilius was called Serranus because he was found sowing his land when he was summoned to take command (Val. Max. iv. 4, 5).

"Quis Gracchi genus, aut geminos duo fulmina belli
Scipiadas, cladem Libyae, parvoque potentem
Fabricium, vel te sulco, Serrane, serentem?" (Virg. Aen. vi. 843.)

Gavii olaeliore a calatis] Here is a corruption past cure. Cicero is making a play on the word Calatinus. He says that the man passed from 'Calati Gavii' to the 'Calatini Atilii;' where the word 'Calati' has a reference probably to the 'comitia calata,' in which the adoptions of persons who were 'sui juris' were made. He says 'insitus,' 'ingrafted.'

nominibus . . . sustulit.] Abrami, says Halm, has the merit of discovering the meaning of this rather obscure passage. He entered in his 'tabulae,' or book of accounts, the sum which Clodius promised him for his services, and then he erased his name from the 'tabula' in which he had subscribed it to the 'promulgatio.' Halm translates it: "After he had entered in his account-tables the sums which he had received, all at once he struck out his name

sustulit. Veniunt Kalendae Januariae: vos haec melius scire potestis; equidem audita dico: quae tum frequentia senatus, quae exspectatio populi, qui concursus legatorum ex Italia cuncta, quae virtus, actio, gravitas P. Lentuli consulis fuerit, quae etiam collegae ejus moderatio de me: qui quum inimicitias sibi mecum ex rei publicae dissensione susceptas esse dixisset, eas se patribus conscriptis dixit et temporibus rei publicae permissurum.

XXXIV. Tum princeps rogatus sententiam L. Cotta dixit id quod dignissimum re publica fuit, nihil de me actum esse jure, nihil more majorum, nihil legibus; non posse quemquam de civitate tolli sine judicio; de capite non modo ferri, sed ne judicari quidem posse nisi comitiis centuriatis; vim fuisse illam, flammam quassatae rei publicae perturbatorumque temporum jure judiciisque sublatis; magna rerum permutatione impendente declinasse me paullum et spe reliquae tranquillitatis praesentes fluctus tempestatemque fugisse: quare, quum absens rem publicam non minus magnis periculis quam quodam tempore praesens liberassem, non restitui me solum, sed etiam ornari a senatu decere. Disputavit etiam multa prudenter, ita de me illum amentissimum et profligatissimum hostem pudoris et pudicitiae scripsisse quae scripsisset, iis verbis, rebus, sententiis, ut, etiam si jure esset rogatum, tamen vim habere non posset: quare me, qui nulla lege abessem, non restitui lege, sed revocari senatus auctoritate oportere. Hunc

from the Law-table:" in which he has attempted to keep the play on the words: "als er die Namen der empfangenen Summen in seine Rechnungstafeln eingetragen, strich er plötzlich seinen Namen von der Gesetztafel hinweg."

Kalendae Januariae:] When the new consuls entered on their duties.—'moderatio:' the moderation of Lentulus' colleague, Q. Metellus, though he was Clodius' cousin. —'permissurum:' 'surrender,' 'give up to:' he was ready to give up his feelings and passions. Halm refers to the De Prov. Cons. c. 18, where he says, "me dolorem et inimicitias meas rei publicae concessisse;" and Phil. v. 18: "omnes Caesar inimicitias rei publicae condonavit."

34. *L. Cotta*] This was the Cotta who proposed the Lex Judiciaria by which the Judices were chosen from the three classes. The critics have laboured hard to show why Cotta was first asked to deliver his opinion; and Ferratius, after a learned discussion, concludes that the consul P. Lentulus Spinther asked him either because they were 'affines,' or because they were very intimate; to which we may add 'any other reason why.'

actum esse jure,] De Domo, c. 26; De Legg. iii. 19 (Manutius); to which Halm adds, De Provin. Cons. c. 19.

flammam quassatae] Manutius reminds us that fire is excited by violent motion, and "that truly and elegantly he shows that by the shaking of the Res Publica that flame was produced by which he was burnt." —'permutatione' P., 'perturbatione' G.

pudoris et pudicitiae] Bake (Cic. De Legg. i. c. 19, notes) observes that Cicero often uses these two words together: Verr. ii. 3. c. 6; Pro Cluentio, c. 5.

senatus auctoritate] Here we have an example of the word 'auctoritas' (Verr. ii. 5. c. 22). If the Senate had recalled Cicero by a vote, they might have done it without formally declaring invalid the Lex by which he was interdicted: but in either case there might have been a difficulty. In order that he might escape all popular disturbance (omni populari concitatione defungerer), Pompeius proposed that the 'auctoritas' of the Senate should be confirmed by a vote

nemo erat quin verissime sentire diceret. Sed post eum rogatus Cn. Pompeius approbata laudataque Cottae sententia dixit sese otii mei caussa, ut omni populari concitatione defungerer, censere ut ad senatus auctoritatem populi quoque Romani beneficium erga me adjungeretur. Quum omnes certatim aliusque alio gravius atque ornatius de mea salute dixisset fieretque sine ulla varietate discessio, surrexit, ut scitis, Atilius hic Gavianus; nec ausus est, quum esset emptus, intercedere: noctem sibi ad deliberandum postulavit. Clamor senatus, querelae, preces; socer ad pedes abjectus. Ille se affirmare postero die moram nullam esse facturum. Creditum est; discessum est. Illi interea deliberatori merces longa interposita nocte duplicata est. Consecuti dies pauci omnino Januario mense per quos senatum haberi liceret: sed tamen actum nihil nisi de me.

XXXV. Quum omni mora, ludificatione, calumnia senatus auctoritas impediretur, venit tandem concilio de me agendi dies, VIII Kal. Febr. Princeps rogationis, vir mihi amicissimus, Q. Fabricius, templum aliquanto ante lucem occupavit. Quietus eo die Sestius, is qui est de vi reus: actor hic defensorque caussae meae nihil progreditur, consilia exspectat inimicorum meorum.

of the people, which Cicero calls 'beneficium,' the same word which he often uses to express the offices conferred by popular election.

Gavianus;] Because, as Manutius observes, he had passed by adoption from the Gavii to the Atilii, and after Roman fashion kept his old name with the addition of '-anus.'

noctem . . . postulavit.] A polite form of 'intercessio.' It was not so harsh as an immediate 'veto' (Halm).

socer] Cn. Oppius. This is told in the Quum Populo, c. 6, and the note.

dies pauci] Caesar, B. C. i. 5: "quinque primis diebus (Jan. mensis) quibus haberi senatus potuit, ex qua die consulatum iniit Lentulus, biduo excepto comitiali . . decernitur." These two 'dies comitiales' were III and Prid. Non. The three days then on which the Senate could meet were the Kalendae, IV Non., and the Nonae. Besides these days the Senate could meet on the VII, VI Id., the Idus, and XIX, XVII, XVI Kal. Feb. The last sixteen (?) days were 'comitiales,' as Abrami shows (Matthiae).

35. *concilio de me agendi*] "'concilio' P[1]., 'concilii' G. et P[2]., corr. m. 2, 'in concilio' Madvig, 'in comitio' Lamb." (Halm); who compares Livy (iii. 54): "ea omnia in pratis Flaminiis concilio plebis acta." The earliest editions have 'consilii;' but a 'concilium' or 'contio populi' is meant. Bake (De Legg. p. 522, referred to by Halm) would read 'consilio,' and he says "quoniam comitiis, non concilio, quamquam per vim coactis ea res peracta erat;" and he refers to Tacit. Ann. xii. 1: "in consilium vocat." But the true conclusion seems to be that 'concilio' or 'concilii' is the proper word. The objection to 'concilii agendi' is that the Romans did not say 'concilium agere' or 'comitia agere;' but Garatoni quotes from Caesar, B. G. vi. 4: "peragit concilium Caesar;" and Caesar has also 'concilio peracto' (v. 24). 'Conventus agere' is a common expression, and 'conventus peragere:' but a man is said 'conventus agere.'

templum] See c. 29.—'ante lucem:' "non ut jam tum cum populo ageret, sed ne posset aditu prohiberi" (Abrami, quoted by Halm). A note is sometimes instructive, even if it is useless. Abrami is often a trifler. Who does not see the orator's meaning? He knew better than to tell us what we know without being told.

nihil progreditur,] The words which follow explain it; but still the critics have not agreed about the meaning. Halm cor-

Quid illi, quorum consilio P. Sestius in judicium vocatur, quo se pacto gerunt? Quum forum, comitium, curiam multa de nocte armatis hominibus ac servis plerisque occupavissent, impetum faciunt in Fabricium, manus afferunt, occidunt nonnullos, vulnerant multos. Venientem in forum virum optimum et constantissimum, M. Cispium, tribunum plebis, vi depellunt; caedem in foro maximam faciunt; universique destrictis gladiis et cruentis in omnibus fori partibus fratrem meum, virum optimum, fortissimum meique amantissimum, oculis quaerebant, voce poscebant. Quorum ille telis libenter in tanto luctu ac desiderio mei non repugnandi, sed moriendi caussa corpus obtulisset suum, nisi suam vitam ad spem mei reditus reservasset. Subiit tamen vim illam nefariam consceleratorum latronum, et quum ad fratris salutem a populo Romano deprecandam venisset, pulsus e rostris in comitio jacuit seque servorum et libertorum corporibus obtexit vitamque tum suam noctis et fugae praesidio, non juris judiciorumque defendit. Meministis tum, judices, corporibus civium Tiberim compleri, cloacas refereiri, e foro spongiis effingi sanguinem, ut omnes tantam illam copiam et tam magnificum apparatum non privatum aut plebeium, sed patricium et praetorium esse arbitrarentur.

rectly translates it: "he makes no first step, does not take the initiative at all;" and he compares Livy 31. c. 1: "quidquid progredior." "*Ad nihil progredi*, quod Orelli dicendum fuisse putat, Latine non dicitur, *ad nihilum* tantum certo modo. Ideo dixit *nihil progredi* i. e. *in nulla re;* sic enim fere (vel *ad nullam rem*) intelligi *nihil potest*, ubi pro *non* ponitur" (Madvig). 'Ad omnia progredientes' occurs in the De Harusp. c. 26.

forum, comitium,] Halm refers to Becker, Röm. Alterthüm. i. p. 275: "It is an entirely erroneous assumption of those who suppose the Comitium to be a building or at least a space roofed over and surrounded with pillars. It is rather a part of the Forum itself, which received the name from its political destination, while the other part which was appropriated to other business is simply called Forum, and the name denotes also both, the whole ἀγορά. Accordingly the Comitium is often opposed to the Forum, and the former is named as the most important part of the Forum (Cicero, Pro Sestio, c. 35; Livy 34. c. 45; Sueton. Caesar, c. 10). It is an open uncovered place, like the rest of the Forum, as appears from this, that troops passed through it, that it rained blood and milk on it (Livy 34. c. 45), that the sacred Ficus Ruminalis stood there (Tacit. Ann. xiii. c. 58), and even the Rostra (Pro Sestio, c. 35: 'pulsus e Rostris in Comitio jacuit'); and above all, how could a place where popular meetings (contiones) were held, which were addressed from the Rostra, have been covered (Livy 10. c. 24; 3. c. 10, 11; 3. c. 33)?"

multa de nocte] See Pro Murena, c. 9, note on 'de nocte.' Here it means that a good deal of the night remained (Halm).

destrictis] Garatoni (cited by Halm) says that 'destrictis' is the only true form. Halm thinks that 'districtis' is altogether to be condemned. I think not. See Caesar, B. G. i. 25, and Schneider's note.

jacuit] He was wounded and fell, which seems to be the meaning, but the men about him protected him. Plutarch (Cicero, c. 33) may have had this passage before him and misunderstood it, for he says, "Quintus, the brother of Cicero, only escaped by lying among the bodies as if he were dead."

spongiis effingi] 'Wiped up with sponges,' as Servius explains it (Ad Aen. viii. 634). P. G. have 'effundi' (Halm).

apparatum] The 'apparatus' is the preparation for this fight, which he calls 'magnificus,' alluding to the Praetor Ap-

XXXVI. Nihil neque ante hoc tempus neque hoc ipso turbulentissimo die criminamini Sestium.—Atqui vis in foro versata est.—Certe: quando enim major? Lapidationes persaepe vidimus: non ita saepe, sed nimium tamen saepe, gladios: caedem vero tantam, tantos acervos corporum exstructos, nisi forte illo Cinnano atque Octaviano die, quis umquam in foro vidit? Qua ex concitatione animorum? Nam ex pertinacia aut constantia intercessoris oritur saepe seditio, culpa atque improbitate latoris commodo aliquo imperitis aut largitione [proposita]; oritur ex concertatione magistratuum; oritur sensim ex clamore primum, deinde aliqua discessione contionis; vix, sero et raro ad manus pervenitur: nullo vero verbo facto, nulla contione advocata, nulla lege recitata concitatam nocturnam seditionem quis audivit? An veri simile est, ut civis Romanus aut homo liber quisquam cum gladio in forum descenderit ante lucem, ne de me ferri pateretur, praeter eos qui ab illo pestifero ac perdito civi jam pridem rei publicae sanguine saginantur? Hic jam de ipso accusatore quaero, qui P. Sestium queritur cum multitudine in tribunatu et cum praesidio magno fuisse, num illo die fuerit? Certe non fuit. Victa igitur est caussa rei publicae, et victa non auspiciis, non intercessione, non suffragiis,

pius, Clodius' brother; for Clodius was a private man now and a plebeian, his brother was a patrician and praetor. In c. 39 he hints at gladiators having been supplied by the praetor (Manutius). The story is told by Dion, 39. c. 7. Appius had the gladiators for his kinsman Marcus' funeral.—'ut . . . arbitrarentur:' this, which is one of the common formulae of the Latin language, is easily understood, but generally ill translated, because we keep to the form of the Latin language even when our own stubbornly refuses to accommodate itself: "You remember, judices, on that day the Tiber was filled with the bodies of our citizens, the sewers were choked, the blood was wiped up from the Forum with sponges, which was enough to make every body consider all those great means and magnificent preparation, not private or plebeian, but patrician and praetorian."

36. *Cinnano atque Octaviano die,*] In Cat. iii. c. 10, and the note on Cn. Octavius.

Qua ex concitatione] 'What was the cause of this disturbance?' on the day which Cicero has just described (c. 35). This perhaps may be mistaken, for Halm says that Osiander supposed the words to refer to the riot of Cinna and Octavius, which is a very stupid mistake.

commodo aliquo] After these words Halm (2) puts in 'oblato' of his own coining. In the editions since Naugerius there is 'proposita' after 'largitione;' I suppose without any MSS. authority. We can do without either of them.

discessione] 'Division into parties.' Wunder and Orelli (2) propose 'dissensione,' which cannot be accepted. Halm refers to Gellius ii. 12: "si ob discordiam dissensionemque seditio atque discessio populi in duas partes fieret;" to the Quum Populo, c. 3, "in discessu;" and to the De Domo, c. 26, where he thinks that we should read 'discessione hominum,' for he does not think that 'dissensio,' as far as he can see, can go with 'instituitur;' nor perhaps can we say 'discessio instituitur.'

recitata concitatam] "'*concitata*' (om. *recit.*) P.; '*recitata*' (om. *concit.*) G." (Halm); who writes (2) 'lege *lata* concitatam.'

An veri simile est, ut] See Pro Sulla, c. 20, note.—'ipso accusatore:' M. Tullius Albinovanus. See the Preface.—'non auspiciis:' not by an 'obnuntiatio,' of which he speaks in the next sentence.

sed vi, manu, ferro. Nam si obnuntiasset Fabricio is praetor qui se servasse de caelo dixerat, accepisset res publica plagam, sed eam quam acceptam gemere posset: si intercessisset collega Fabricio, laesisset rem publicam, sed [rem publicam] jure laesisset. Gladiatores tu novicios, pro exspectata aedilitate suppositos, cum sicariis e carcere emissis ante lucem immittas? magistratus templo dejicias? caedem maximam facias? forum purges? et, quum omnia vi et armis egeris, accuses eum qui se praesidio munierit, non ut te oppugnaret, sed ut vitam suam posset defendere?

XXXVII. Atqui ne ex eo quidem tempore id egit Sestius, ut a suis munitus tuto in foro magistratum gereret, rem publicam administraret. Itaque fretus sanctitate tribunatus, quum se non modo contra vim et ferrum, sed etiam contra verba atque interfationem legibus sacratis esse armatum putaret, venit in templum Castoris, obnuntiavit consuli: quum subito manus illa Clodiana in caede civium saepe jam victrix exclamat, incitatur, invadit: inermem atque imparatum tribunum alii gladiis adoriuntur, alii fragmentis saeptorum et fustibus: a quibus hic multis vulneribus acceptis ac debilitato corpore et contrucidato se abjecit exanimatus neque ulla alia re ab se mortem nisi opinione mortis depulit. Quem quum jacentem et concisum plurimis vulneribus extremo spiritu exsanguem et confectum viderent, defatigatione magis et errore quam misericordia et modo aliquando caedere destiterunt. Et caussam

is praetor qui se servasse de caelo dixerat,] In (1) Halm remarks that this is the reading of most of the MSS., the 'pravitas' of which Madvig has proved more than enough. Madvig proposes either 'is qui servasset de caelo,' or 'is qui se servasse de caelo diceret.' In (2) Halm retains the reading which Madvig had proved to be wrong. This is Madvig's remark on his proposed reading: "Cicero dicit, si quis (neminem unum significat, nam *is=talis aliquis*) usitato et legitimo (ante legem Clodiam, v. supra 15, coll. Phil. ii. 32) impedimento comitiorum usus esset, gravem futuram fuisse, sed tolerabilem plagam; id impedimentum duplex erat, ut aut servaret aliquis de caelo, quod magistratuum majorum erat, aut intercederetur, quod tribunorum." Halm remarks that not only the 'magistratus majores' had the 'jus obnuntiationis,' but also the tribuni pl. by the Lex Aelia.

rem publicam,] The repetition of this word spoils the sentence, as the critics have observed, for the opposition is between 'laesisset' and 'jure laesisset.'—'novicios:' Clodius was aedilis in the year after the turbulent affray, the year in which this oration was delivered, and the people would expect a show of gladiators from him (Madvig).

37. *interfationem*] P., 'interfectionem' G. Garatoni compares Pliny, Ep. i. 23: "quod deforme arbitrabar . . . quem interfari nefas esset, hunc etiam convicia audire;" where Pliny is describing the nature of the tribune's office. Abrami compares Dion. Hal. vii. 17: *δημάρχου γνώμην ἀγορεύοντος ἐν δήμῳ μηδεὶς λεγέτω μηδὲν ἐναντίον μηδὲ μεσολαβείτω τὸν λόγον.*

saeptorum] The wooden 'saepta' or inclosure of the Forum (Abram.).—Sestius was saved by Bestia (Cicero, Ad Q. Fr. ii. 3): "incidique in eum locum in dicendo, quum Sestius multis in templo Castoris vulneribus acceptis subsidio Bestiae servatus est" (Garatoni). Cicero spoke of this matter on the trial of Bestia for 'ambitus,' which trial took place A. D. III Id. Febr., before that of Sestius, who was tried in the first half of March.

dicit Sestius de vi? quid ita? Quia vivit. At id non sua culpa: plaga una illa extrema defuit, quae si accessisset, reliquum spiritum exhausisset. Accusa Lentidium; non percussit locum: male dic Titio Sabino, homini Reatino, cur tam temere exclamarit occisum. Ipsum vero quid accusas? num defuit gladiis? num repugnavit? num, ut gladiatoribus imperari solet, ferrum non recepit?

XXXVIII. An haec ipsa vis est, non posse emori? an illa, quod tribunus plebis templum cruentavit? an quod, quum esset ablatus primumque resipisset, non se referri jussit? Ubi est crimen, quid reprehenditis? Hic quaero, judices, si illo die gens ista Clodia, quod facere voluit, effecisset; si P. Sestius, qui pro occiso relictus est, occisus esset, fuistisne ad arma ituri? fuistisne vos ad patrium illum animum majorumque virtutem excitaturi? fuistisne aliquando rem publicam a funesto latrone repetituri? an etiam tum quiesceretis, cunctaremini, timeretis, quum rem publicam a facinorosissimis sicariis et a servis esse oppressam atque conculcatam videretis? Cujus igitur mortem ulcisceremini, si quidem liberi esse et habere rem publicam cogitaretis, de ejus virtute vivi quid vos loqui, quid sentire, quid cogitare, quid judicare oporteat, dubitandum putatis? At vero ipsi illi parricidae, quorum effrenatus

locum:] He did not hit him in the right place: he did not inflict a deadly blow.—'num defuit gladiis?' "did he avoid the assassins' swords? did he not, as it is the fashion to bid the gladiators do, receive the blow?" There is a similar use of 'defuisti' in Phil. ii. c. 29. Cicero's expression is an allusion to the people calling out to a gladiator or giving the signal for him to receive the mortal blow. Abrami refers to Pro Rosc. Am. c. 12; Seneca, De Tranquill. c. 11; and Halm adds a reference to Lipsius, Saturn. ii. c. 22, who has collected what they call the learning about Gladiators (Opera, vol. iii. ed. 1675). Lipsius cites this passage, and Cicero (Tuscul. ii. 17) who has, as Lipsius says, represented the thing very graphically: "Quis mediocris gladiator . . . non modo stetit, verum etiam decubuit turpiter? quis quum decubuisset, ferrum jussus recipere collum contraxit?" Lipsius quotes a passage from Lactantius, which is evidence of the savage brutality of the Romans: "Quinetiam percussos jacentesque repeti jubent et cadavera ictibus dissipari, ne quis illos simulata morte deludat."

38. *quid reprehenditis?*] The MSS. reading is 'quod reprehenditis?' It is objected to this reading that 'crimen' is not used by the old writers simply for 'scelus' and 'maleficium.' But there are many passages in which it is difficult to separate the notion of the wrongful deed from the charge founded on the deed; as in the De Or. ii. c. 48, and in other passages. Halm, who defends 'quod' in (1), adopts 'quid,' the emendation of Bake and Wesenberg, in (2); and he has done right. For the fault of 'quod crimen' is not so much in the use of the word 'crimen,' as in the feebleness of the expression: "Where is the criminal deed which you blame?" Halm (2) compares Pro Fonteio, c. 1: "Quid accusas, quid reprendis?"

fuistisne . . . ituri?] Halm compares Pro Ligario, c. 8: "quaero quid facturi fuistis?"—'rem publicam repetituri:' Halm compares Livy v. 46: "maturum jam videbatur repeti patriam eripique ex hostium manibus." Matthiae went further: he compared the passage in the De Domo, c. 55: "res vero publica ab istius . . . furore jam tum me seque repetebat," and the note. It is useful to compare them, for it shows us that the Declamator did not write like the man whose name he impudently assumed.

furor alitur impunitate diuturna, adeo vim facinoris sui perhorruerunt, ut, si paullo longior opinio mortis Sestii fuisset, Gracchum illum suum transferendi in nos criminis caussa occidere cogitarint. Sensit rusticulus non incautus—neque enim homines nequam tacere potuerunt,—suum sanguinem quaeri ad restinguendam invidiam facinoris Clodiani: mulioniam penulam arripuit, cum qua primum Romam ad comitia venerat; messoria se corbe contexit. Quum quaererent alii Numerium, alii Quintium, gemini nominis errore servatus est. Atque hoc scitis omnes, usque adeo hominem in periculo fuisse, quoad scitum est Sestium vivere. Quod ni esset patefactum paullo citius quam vellem, non illi quidem morte mercenarii sui transferre potuissent invidiam in quos putabant, sed acerbissimi sceleris infamiam grato quodam scelere minuissent. Ac si tum P. Sestius, judices, in templo Castoris animam, quam vix retinuit, edidisset, non dubito, quin, si modo esset in re publica senatus, si majestas populi Romani revixisset, aliquando statua huic ob rem publicam interfecto in foro statueretur. Nec vero illorum quisquam, quos a majoribus nostris morte obita positos in illo loco atque in rostris collocatos videtis, esset P. Sestio aut acerbitate mortis aut animo in rem publicam praeponendus: qui quum caussam civis calamitosi, caussam amici, caussam bene de re publica meriti, caussam senatus, caussam Italiae, caussam rei publicae suscepisset, quumque auspiciis religionique parens obnuntiaret quod senserat, luce palam a

perhorruerunt,] 'perhorruerant' G., Halm. In P. it is not possible to determine whether it is 'perhorruerant' or 'perhorruerunt.'

Quintium,] P. G. Orelli suggests that it should be Quintum, for it appears that the man's name was Quintus (c. 33, note). Some called out, Let us kill Numerius, which was his gentile name, but Numerius was also a praenomen, of which we have examples in Gaius (iv. 40): others knowing only his praenomen Quintus and his cognomen Rufus said, What Numerius? We are looking for Quintus, and so by the mistake he was saved. Perhaps his name was Numerius Quintius (Quum Senatui, c. 8, note), as some critics have named him.

quam vellem,] Bake altered this to 'vellent' with this remark: "Ciceronis scilicet intererat sero illud patefieri! Immo ipsorum Clodianorum intererat vere in illa strage occisum esse Sestium." If the reading had been 'vellent,' it would have puzzled any man to find out the meaning. Halm explains it right; and there is no difficulty. Cicero says he wishes they had not so soon found out that Sestius was alive, and then they would have murdered Numerius, who would have got his deserts.

morte obita] 'scil. ob rem publicam' (Halm). Of course, not statues of every man who died. Lucretius (i. 134) has this form:

"Cernere uti videamur eos audireque coram,
Morte obita quorum tellus amplectitur ossa."

in rostris] Statues placed on the Rostra. Manutius refers to the passage in Phil. ix. c. 2: "Lar Tolumnius, rex Veientium; quattuor legatos populi Romani Fidenis interemit, quorum statuae steterunt usque ad meam memoriam in rostris;" and Halm to Pliny 34, c. 5.

quod senserat,] His 'obnuntiatio' contained a true declaration. It was not made with any dishonest purpose.

nefariis pestibus in deorum hominumque conspectu esset occisus sanctissimo in templo, sanctissima in caussa, sanctissimo in magistratu. Ejus igitur vitam quisquam spoliandam ornamentis esse dicet, cujus mortem ornandam monumento sempiterno putaretis?

XXXIX. Homines, inquit, emisti, coegisti, parasti.—Quid uti faceret? senatum obsideret? cives indemnatos expelleret? bona diriperet? aedes incenderet? tecta disturbaret? templa deorum immortalium inflammaret? tribunos plebis ferro e rostris expelleret? provincias quas vellet quibus vellet venderet? reges appellaret? rerum capitalium condemnatos in liberas civitates per legatos nostros reduceret? principem civitatis ferro obsessum teneret? Haec ut efficere posset, quae fieri nisi armis oppressa re publica nullo modo poterant, idcirco, credo, manum sibi P. Sestius et copias comparavit.—At nondum erat maturum; nondum res ipsa ad ejusmodi praesidia viros bonos compellebat.—Pulsi nos eramus, non omnino ista manu sola, sed tamen non sine ista: vos taciti maerebatis. Captum erat forum anno superiore, aede Castoris tamquam arce aliqua a fugitivis occupata: silebatur. Omnia hominum quum egestate tum audacia perditorum clamore, concursu, vi, manu gerebantur: perferebatis. Magistratus templis pellebantur, alii omnino aditu ac foro prohibebantur: nemo resistebat. Gladiatores ex praetoris comitatu comprehensi, in sena-

39. *Homines . . . coegisti,*] This was the charge against Sestius (Manutius). To get men together in order to accomplish any thing by violence is treason, if the violence is directed against the sovereign power; and it is riot, or whatever else is the proper name, if it is directed against a private person, or more than one. This second kind of violence the Romans called Vis, and the penalties of the Lex Plautia were directed against it.

senatum obsideret?] An allusion, as it seems, to the story told in Plutarch (Cicero, c. 31), who says: "When the Senate had met in order to pass a vote that the people should change their dress as in a public calamity, and the consuls (Gabinius and Piso) opposed it, and Clodius was in arms about the Senate-house, no small number of the Senators ran out tearing their clothes and calling aloud." The rest of the allusions will be understood if a man will read the oration carefully. Clodius burnt a temple of the Nymphae (Pro Milone, c. 27; Pro Caelio, c. 32).

At nondum erat maturum;] These words refer to what Cicero does not deny, that Sestius did get a body of armed men together; and to what he does deny, that he got them together for the same purposes that Clodius did; but he collected them in order to defend the state when the time came.

anno superiore,] In B.C. 58, the year of Clodius' tribuneship, when Castor's temple, the 'castellum' of the great tribune, was occupied by him (c. 15; De Domo, c. 21).

ex praetoris comitatu] App. Claudius Pulcher, P. Clodius' brother.—'alterius tribuni:' Milo, whose house was attacked by Clodius. Cicero tells the story in a letter to Atticus (iv. 3), as Manutius says, and he adds that on this ground Milo prosecuted him De Vi. But the letter tells us plainly that this attack on Milo's house was made after Cicero's return. In the Quum Senatui, c. 8, mention is made of Milo attempting to prosecute Clodius De Vi, but the Declamator does not mention the attack of Clodius on Milo's house; and he is consistent in not doing so, for the attack was made pridie Id. Nov. (Ad Att. iv. 3), after the day on which the oration Quum Senatui

tum introducti, confessi, in vincla conjecti a Milone, emissi a Serrano: mentio nulla. Forum corporibus civium Romanorum constratum caede nocturna: non modo nulla nova quaestio, sed etiam vetera judicia sublata. Tribunum plebis plus viginti vulneribus acceptis jacentem moribundumque vidistis: alterius tribuni plebis, divini hominis,—dicam enim quod sentio et quod mecum sentiunt omnes—divini, insigni quadam, inaudita, nova magnitudine animi, gravitate, fide praediti, domus est oppugnata ferro, facibus, exercitu Clodiano.

XL. Et tu hoc loco laudas Milonem et jure laudas. Quem enim umquam virum tam immortali virtute vidimus? qui nullo praemio proposito praeter hoc, quod jam contritum et contemptum putatur, judicium bonorum, omnia pericula, summos labores, gravissimas contentiones inimicitiasque suscepit? qui mihi unus ex omnibus civibus videtur re docuisse, non verbis, et quid oporteret a praestantibus viris in re publica fieri et quid necesse esset: oportere hominum audacium, eversorum rei publicae sceleri legibus et judiciis resistere; si leges non valerent, judicia non essent, si res publica vi consensuque audacium armis oppressa teneretur, praesidio et copiis defendi vitam et libertatem necesse esse. Hoc sentire prudentiae est, facere fortitudinis; et sentire vero et facere perfectae cumulataeque virtutis. Adiit ad rem publicam tribunus

was delivered. Wolf remarks in his note (Quum Senatui, c. 8) that Middleton (Life of Cicero) makes the Postulatio mentioned in the Quum Senatui follow the attack spoken of in the letter, and that Hotmann in his note on the Quum Senatui, c. 8, and Manutius in his note on the Pro Sestio, c. 39, say the same. This is a way of charging the Declamator with a mistake which he has not made: at least he does not say that Milo attempted to prosecute Clodius for this act of violence. Cicero speaks here of an attack made before his return from exile, and in the letter of an attack made after his return. In c. 41 he speaks of a prosecution.

If we suppose that Clodius twice attacked Milo's house, Cicero is consistent. Halm says, "since nothing is known of a former attack on Milo's house, the orator must be considered to have cunningly changed the times, with the view, as I suppose, of making a better excuse for Milo arming himself against Clodius' partizans." I see no cunning, but a great deal of folly, in telling a barefaced lie about a recent and notorious event.

40. *hoc loco*] When the accusator spoke of Milo's house being assaulted (Manutius). Halm says: But if the attack was made afterwards—he means of course made after Cicero's return – it does not seem likely that the prosecutor 'hoc loco' spoke of it, but that he compared what Milo did in that troublesome time with what Sestius did, and for the purpose of making Sestius' case appear worse.—This remark assumes that Clodius did not attack Milo's house during Cicero's exile; but Cicero says that he did, and that Milo repelled force by force.

et sentire vero] Manutius, copied by Halm, has a trifling note on 'sentire' and 'facere,' as if he could make that clearer which Cicero has well expressed. To know what is right and to do it are two different things. He is a full man in whom we find both. Halm translates 'vero,' an emphatic word, by 'erst gar,' 'vollends.'

Adiit ad rem publicam] He explains it, if it wants explanation, by other words, 'Adiit . . . ad caussam rei publicae.'—'parem Sestii caussam:' Cicero assumes that Milo and Sestius had done the same thing, and if Milo merits the praise which the pro-

plebis Milo:—de cujus laude plura dicam, non quo aut ipse haec dici quam existimari malit aut ego hunc laudis fructum praesenti libenter impertiam, praesertim cum verbis consequi non possim; sed quod existimo, si Milonis caussam accusatoris voce collaudatam probaro, vos in hoc crimine parem Sestii caussam existimaturos:—adiit igitur T. Annius ad caussam rei publicae sic, ut civem patriae recuperare vellet ereptum. Simplex caussa, constans ratio, plena consensionis omnium, plena concordiae. Collegas adjutores habebat; consulis alterius summum studium, alterius animus paene placatus. De praetoribus unus alienus; senatus incredibilis voluntas, equitum Romanorum animi ad caussam excitati, erecta Italia. Duo soli erant empti ad impediendum: qui si homines despecti et contempti tantam rem sustinere non potuissent, se caussam quam susceperat nullo labore peracturum videbat. Agebat auctoritate, agebat consilio, agebat per summum ordinem, agebat exemplo bonorum ac fortium civium: quid re publica, quid se dignum esset, quis ipse esset, quid sperare, quid majoribus suis reddere deberet, diligentissime cogitabat.

XLI. Huic gravitati hominis videbat ille gladiator se, si moribus ageret, parem esse non posse: ad quotidianam caedem, incendia,

secutor had given him, Sestius merits it just as much.

constans ratio,] His purpose was simple (simplex caussa); and his plan (ratio) was fixed and unvarying. This is the plain meaning. Halm says, "vide ne sit *constans ratio* ea, quae per se ipsa firma fuerit, quippe bonis omnibus probata;" but it is not 'per se ipsa firma,' if it depends on the support of the 'boni.' Cicero speaks of the 'consensio omnium' afterwards.

Collegas] All except Numerius Rufus and Sex. Atilius Serranus. The eight tribuni pl. who were on his side are named in the Quum Senatui, c. 8, 9, and the notes.

consulis alterius] P. Lentulus Spinther; the other is Q. Metellus (Quum Senatui, c. 3; Quum Populo, c. 5).—'De praetoribus unus alienus:' Clodius' brother Appius. The same is said in the In Pison. c. 15 (Manutius).

per summum ordinem,] The Senate (Manutius), if it needs to be explained.—'quid majoribus . . . reddere:' "tamquam debitum. Hoc autem debent majoribus posteri ut eorum virtutem imitentur" (Manutius). Rather dull work to explain such expressions, which are well enough in their oratorical form, but do not bear a strict examination, were not intended to be examined strictly, and ought not to be. The commentator kills his author by dissecting him alive, which is cruel. A wise man once said: "Il y a plus affaire à interpréter les interprétations qu'à interpréter les choses; et plus de livres sur les livres que sur autre sujet; nous ne faisons que nous entregloser. Tout fourmille de commentateurs: d'auteurs, il en est grand' cherté" (Montaigne, Essay on Experience). It is a good rule, a good rule to recommend to a commentator to think what the author would say if he saw what is written on him. If the ancient authors saw one-tenth part of what we write on them, they would form a very sorry opinion of us. Montaigne complains that he often finds a difficulty which the commentary disdains to notice. It is a common case now; and also it is common to find a note where it is not wanted. Perhaps this note may exemplify the remark.

41. *moribus ageret,*] According to the 'mos majorum,' according to the rules established by usage and transmitted to later times. So Halm properly explains it, and he refers to the expression 'moribus deducere.' See Vol. II. Pro Tullio, 20, note. The usual expression was 'mos majorum,' when old usage is meant; but the plural is

rapinas se cum exercitu suo contulit: domum oppugnare, itineribus occurrere, vi lacessere et terrere coepit. Non movit hominem summa gravitate summaque constantia: sed quamquam dolor animi, innata libertas, prompta excellensque virtus fortissimum virum hortabatur, vi vim oblatam, praesertim saepius, ut frangeret et refutaret, tanta moderatio fuit hominis, tantum consilium, ut contineret dolorem neque eadem se re ulcisceretur, qua esset lacessitus, sed illum tot jam in funeribus rei publicae exsultantem ac tripudiantem legum si posset laqueis constringeret. Descendit ad accusandum. Quis umquam tam proprie rei publicae caussa? nullis inimicitiis, nullis praemiis, nulla hominum postulatione aut etiam opinione id eum umquam esse facturum. Fracti erant animi hominis: hoc enim accusante pristini illius sui judicii turpitudinem desperabat. Ecce tibi consul, praetor, tribunus plebis nova novi generis edicta proponunt: "NE REUS ADSIT, NE CITETUR, NE QUAERATUR, NE MENTIONEM OMNINO CUIQUAM JUDICUM AUT JUDICIORUM FACERE LICEAT." Quid ageret vir ad virtutem, dignitatem, gloriam natus vi sceleratorum hominum corroborata, legibus judiciisque sublatis? Cervices tribunus plebis privato, praestantissimus vir profligatissimo homini daret? an caussam susceptam affligeret? an se domi contineret? Et vinci turpe putavit et de-

used in certain expressions, which are explained in the note referred to.

ad quotidianam caedem,] The editions have before these words 'ad ferrum, ad faces;' but they are not in some of the MSS. Compare the use of the word 'quotidianus' in Pro Caecina, c. 31, 32, and see the notes (Vol. II.).

nullis praemiis,] In some cases there was a reward proposed to the prosecutor (Vol. II. Pro Cluentio, c. 36).—'facturum:' this word depends on 'opinione.'

pristini . . . judicii turpitudinem desperabat.] This is not our way of speaking, but there is no difficulty about it, though Halm has copied a whole page of Ferratius to show what is meant. Clodius had bribed the judices on his trial for violating the sanctity of the Bona Dea; and it was a dirty business, dirty for the judices and for Clodius too. He could not expect to employ in this new trial the same disgraceful means which he had employed in the other, and of course he could not expect an acquittal. The end of Ferratius' note is good: "By the exertions of Metellus consul, Appius praetor, Serranus tr. pl., and the connivance of the Senate, the comitia were held before the trial could begin, and the aedilis curulis designatus escaped that danger; for 'magistratus designati' could not be prosecuted for any thing else than Ambitus, and Clodius was charged under the Lex Plautia De Vi."

judicum aut judiciorum] Halm remarks that Cicero's statement is not exactly true, for the Edictum was, that nothing of this kind should be done 'priusquam judices sorte lecti essent.' Dion (39. c. 7) is the authority for what he says: "Milo gave notice of a prosecution of Clodius, but he did not bring it into court. For neither were the quaestors elected, whose business it was to determine the judices by lot; and Nepos forbade the praetor to admit any prosecution before the judices were appointed. It was the rule that the aediles should be elected before the quaestors, and through this chiefly the delay was occasioned." Halm further says: "The orator also showed his subtilty in this, that he quotes the words of the Edictum in such a way that they may be applied to Clodius only, 'Ne reus adsit,' though the meaning of the Edictum was 'Ne quis reus adsit.'"

Cervices] See Vol. I. Verr. ii. 3. c. 59, and 5. c. 42.

terreri et latere. Perfecit ut, quoniam sibi in illum legibus uti non liceret, illius vim neque in suo neque in rei publicae periculo pertimesceret.

XLII. Quomodo igitur hoc in genere praesidii comparati accusas Sestium, quum idem laudes Milonem? An qui sua tecta defendit, qui ab aris, focis ferrum flammamque depellit, qui sibi licere vult tuto esse in foro, in templo, in curia, jure praesidium comparat; qui vulneribus, quae cernit quotidie toto corpore, monetur, ut aliquo praesidio caput et cervices et jugulum ac latera tutetur, hunc de vi accusandum putas? Quis enim nostrum, judices, ignorat ita naturam rerum tulisse, ut quodam tempore homines nondum neque naturali neque civili jure descripto fusi per agros ac dispersi

et latere. Perfecit ut,] This is Madvig's emendation, and it is ingenious, but the corrupted readings may mean something else. The MSS. readings are 'etiam eripi rejecit,' says Manutius; all that he had seen. Halm also cites 'etiam eripere elegit ut,' G. Manutius says, "video sane tertium quiddam desiderari, quod referatur ad illud *an caussam susceptam affligeret?* nam cum dixit *et vinci*, spectavit illud *cervices daret:* cum autem *deterreri* respondit ad illud *se domi contineret:* verum etsi fortasse licet sententiam divinare, quibus tamen verbis explicetur, apertum non est."

42. *Quis enim . . . ignorat*] This may be answered by another question, Who does know it? Horace (Sat. i. 3. v. 99) has drawn the same picture of the condition of man in what some writers pleasantly call a state of nature, from which state of nature man emerges by civilization, as it is termed, and so attains to an unnatural state. This conclusion derived from the abuse of the words 'natural' and 'unnatural' is not entirely false, for modern society is living partly in an unnatural and partly in a natural (κατὰ φύσιν) state, the unnatural being the result of false civilization, the natural of true. The state of existence which is most conformable to man's nature cannot be called the Unnatural, and it may be called the Natural state. There is indeed no absolute natural state, no absolute civilization. Each race, each age, each country has its own. Cicero is describing what we call the savage state, which under given circumstances is natural, is conformable to man's nature; but it is a state which does not allow man to attain the highest excellence of which he is capable. The state of society which shall give the greatest number an opportunity of being every thing of which they are capable, is the state most conformable to man's nature, because conformable not to a part, but to the whole of his nature; and this state may properly be called the Natural. No nation has yet attained to this Natural state, which is the dream of enthusiasts, the hope of the benevolent, and the despair of the wise.

neque naturali neque civili jure descripto] I suppose that it ought to be 'discripto,' but I find no notice of this reading. The Roman definition of Jus Civile is given in another place (De Harusp. c. 14). 'Naturalis ratio' according to the Romans was the foundation of what they called Jus Gentium. The Romans had accordingly two divisions of Law with reference to its origin: Jus Civile, or the Roman Law; and Jus Gentium or Jus Naturale, that which is Law among all people, for Jus Gentium and Jus Naturale mean the same thing. The origin of the Jus Gentium is Naturalis ratio.

Ulpian has a threefold division of Law (De Justitia et Jure, Dig. i. 1, 1; 4, 6), which rests on the following view. There was a time in which men recognized only those relations to one another which they have in common with beasts; that of the sexes and that of the continuance of the race, and nurture. Upon this followed a second period, which established States, Slavery, Private property, Obligationes, and among all mankind in the same way. At last Law fashioned itself in every separate State in a peculiar way, partly through deviations from those general rules, partly by the addition of new rules (Savigny, System, &c. vol. i. Beylage 1, where something more is said of this matter). But the really practical division of Law into two parts was that which prevailed among the Romans. The following passage contains the Roman notion as to the origin of the Jus Naturale

vagarentur tantumque haberent, quantum manu ac viribus per caedem ac vulnera aut eripere aut retinere potuissent? Qui igitur primi virtute et consilio praestanti exstiterunt, ii perspecto genere humanae docilitatis atque ingenii dissipatos unum in locum congregarunt eosque ex feritate illa ad justitiam atque ad mansuetudinem transduxerunt. Tum res ad communem utilitatem, quas publicas appellamus, tum conventicula hominum, quae postea civitates nominatae sunt, tum domicilia conjuncta, quas urbes dicimus, invento et divino jure et humano moënibus saepserunt. Atque inter hanc vitam perpolitam humanitate et illam immanem nihil tam interest quam jus atque vis. Horum utro uti nolumus, altero est

and the Jus Civile (Instit. ii. I. § 11): "Palam est autem vetustius esse naturale jus quod cum ipso genere humano rerum natura prodidit: civilia enim jura tunc coeperunt esse quum et civitates condi et magistratus creari et leges scribi coeperunt."

feritate] G., 'ecferitate' P. Halm has 'efferitate.'

res ad communem utilitatem,] P. G. Halm (1) has 'res communem utilitatem continentes.' After 'nominatae sunt,' Garatoni and Madvig would add 'instituerunt,' because they took 'moenibus saepserunt' in the literal sense. Bake maintains that these words are not to be taken in the literal sense; and he compares In Pison. c. 2: "ut a quo legibus non poteramus, moenibus tuti esse possemus;" and Pro Caecina, c. 26: "haec jure civili saepta sunt." He proposes to read 'tamquam moenibus.' Halm (2) has 'ut moenibus' and compares Cicero, Paradox. iv. § 27: "sapientis animus virtutibus omnibus ut moenibus saeptus." "*Ut moenibus* Ravius (praeeunte Bakio, qui *tamquam moen.* conjecerat): *ut* om. codd. et Orelli" (Halm).

I think that all the critics are wrong, but in different ways. 'Moenibus saepserunt,' which refers to 'domicilia conjuncta quas urbes dicimus,' must be taken literally. The form of the sentence admits only one verb: 'Tum res . . . publicas, tum conventicula . . . tum domicilia . . . moenibus saepserunt;' and this one verb must apply to all. He is speaking of every thing that the city wall contained. The Res Publicae are the things which are common to all, as temples, fora, and the like. Cod. Par. has 'res ad communem utilitatem continentes,' which Klotz has in his edition of Cicero. He first translated it: 'the relations which hang together for common use, which we call State-unions;' and in a note to his edition of Cicero he translates it: 'the unions which hold together for the purpose of the common interest, which we call States;' and he adds this remark: "the participle *continens* stands here in its proper signification. The word in this sense is sufficiently protected by the following expressions *conventicula hominum* and *domicilia conjuncta*." There is something comical in this editor's self-satisfaction. Halm says, "Non miratus sum Klotzium talia pro Tullianis venditasse, sed illud miratus sum, quod, qui verba Latina convertere vellet, ne quaesivit quidem quae h. l. *res publicae* appellarentur. Non enim intelliguntur 'Staaten' (states) sive 'Staatsverbände' (state-unions), de his enim in proximis agitur: *tum conventicula hominum, quae postea civitates nominatae sunt*, sed res usibus populi perpetuo expositae, quales sunt res sacrae, fora, basilicae, porticus aliaque id genus. v. Cic. de Off. i. 17; Dig. 45. 1. 137. § 6."

The passage has been obscured by a false reading; and Halm has not quite seized the full meaning, or he would not have inserted 'ut' before 'moenibus.' The walls include the whole, the houses, public places, and the men who compose the state. Each state had of course land outside the walls, but it was the old Italian fashion to live in the city, and to go out to cultivate the land. The city wall contained the state, for when the wall was broken down, the political community was at the mercy of the conqueror, and was dispersed or enslaved. Such was one of the forms of social existence, in which the notion of State was inseparable from that of Urbs.

nolumus,] S., 'nolimus' P. G. Madvig, quoted by Halm, says that the 'ratio grammatica,' or the Roman usage, I suppose, requires 'nolumus,' "for *utercun-*

utendum. Vim volumus exstingui: jus valeat necesse est, id est judicia, quibus omne jus continetur. Judicia displicent aut nulla sunt: vis dominetur necesse est. Hoc vident omnes: Milo et vidit et fecit ut jus experiretur, vim depelleret. Altero uti voluit, ut virtus audaciam vinceret: altero usus necessario est, ne virtus ab audacia vinceretur. Eademque ratio fuit Sestii, si minus in accusando—neque enim per omnes fuit idem fieri necesse,—at certe in necessitate defendendae salutis suae praesidioque contra vim et manum comparando.

XLIII. O di immortales! quemnam ostenditis exitum nobis? quam spem rei publicae datis? quotus quisque invenietur tanta virtute vir, qui optimam quamque caussam rei publicae amplectatur, qui bonis viris deserviat, qui solidam laudem veramque quaerat? quum sciat duo illa rei publicae paene fata, Gabinium et Pisonem, alterum haurire quotidie ex pacatissimis atque opulentissimis Syriae gazis innumerabile pondus auri; bellum inferre quiescentibus, ut eorum veteres illibatasque divitias in profundissimum libidinum suarum gurgitem profundat; villam aedificare in oculis omnium tantam, tugurium ut jam videatur esse illa villa, quam ipse tribunus plebis pictam olim in contionibus explicabat, quo fortissimum ac summum civem in invidiam homo castus ac non cupidus

que and *uter* used for it have the same rule as *quicunque, quisquis, utut, utcunque.*"

Vim volumus] This is not an unusual form of expression: "Suppose or If we would have violence extinguished, law must prevail, that is, the administration of justice, which comprehends all law." Again: "Suppose or If we will have no administration of justice, or there is none, force must of necessity rule." Cicero's remark contains nothing new; but he has said well what he intends to say. The purity of the courts of law, the impartial administration of justice, as prompt as possible, at as small a cost as possible, is the simplest and the surest test of a well-constituted state. It is so great a blessing that even despotism with it may be tolerable; and without it liberty, then falsely so called, is intolerable.

Hoc vident] P. G. have 'hoc;' S. has 'haec.' But 'hoc' refers to all that has preceded as one thing.—'et fecit ut jus experiretur:' a well-known periphrasis for 'expertus est,' but more appropriate here on account of the antithesis (Halm).

43. *duo . . . paene fata,*] Halm quotes Ovid, Fast. v. 389:

"Stare simul casu Trojae duo fata videres:
Hinc puer Aeacides, hinc Jove natus erat."

He also refers to the expression De Prov. Cons. c. 1: "Gabinium et Pisonem duo rei publicae portenta ac paene funera." He calls 'paene' an adverb, which performs the part of an attribute; and refers to De Domo, c. 57, "in illo paene fato," where the word is well used. He should have referred to other examples (Quum Senatui, c. 15, note), which would show the difference between Cicero and his ape.

villam] At Tusculum. See De Domo, c. 47, where we are told what it was built out of. Gabinius was trib. pl. in B.C. 67. The 'illa villa' seems to be the 'villa' of Lucullus, of which Gabinius showed the Romans a picture in order to make them comprehend the wealth and extravagance of the man whom he was attacking. Gabinius did this when he was proposing the Lex for giving Pompeius the command against the pirates (Introd. to the De Imp. Cn. Pom-

vocaret: alterum Thracibus ac Dardanis primum pacem maxima pecunia vendidisse; deinde, ut illi pecuniam conficere possent, vexandam iis Macedoniam et spoliandam tradidisse; eundemque bona creditorum, civium Romanorum, cum debitoribus Graecis divisisse; cogere pecunias maximas a Dyrrachinis, spoliare Thessalos, certam Achaeis in annos singulos pecuniam imperavisse, neque tamen ullo in publico aut religioso loco signum aut tabulam aut ornamentum reliquisse: hos sic illudere, quibus omne supplicium atque omnis jure optimo poena debetur; reos esse hos duos, quos videtis. Omitto jam Numerium, Serranum, Aelium, quisquilias seditionis Clodianae: sed tamen hi quoque etiam nunc volitant, ut videtis; nec, dum vos de vobis aliquid timebitis, illi umquam de se pertimescent.

XLIV. Nam quid ego de aedile ipso loquar, qui etiam diem dixit et accusavit de vi Milonem? Neque hic tamen ulla umquam injuria adducetur, ut eum tali virtute tantaque firmitate animi se in rem publicam fuisse poeniteat: sed, qui haec vident adolescentes, quonam suas mentes conferent? Ille, qui monumenta publica, qui

peii, Vol. II.). The speech of Gabinius on this occasion, or Dion's speech for him, is in Dion, 36. c. 10.

alterum Thracibus] Piso. The Dardani were in the higher Moesia. The attack of the Thracians on Macedonia is mentioned in the De Prov. Cons. c. 2, where the matter is stated a little differently. There is something about the Apolloniatae in the In Pison. c. 35; and about the Dyrrachini and others in the In Pison. c. 34, and the De Prov. Cons. c. 3.

The Achaei are here mentioned as under Piso's jurisdiction; and as he has mentioned the Thessali, he may intend by the term Achaei to designate the states south of Thessaly. See Pro Flacco, c. 26, and the note on Achaea.

publico aut religioso] On the word 'religiosus' see Vol. II. Pro C. Rabirio, c. 2, note. A 'locus publicus' is a place set apart for public use.

hos sic illudere,] Halm (1). In (2) he has written 'illos sic illudere,' but the MSS. which he cites have 'hos,' and 'illos' is a correction made in order to correspond to 'hos duos.' Wesenberg proposes to write 'eos' for 'hos.' Halm (1) gives some good reasons for retaining 'hos,' and I think it may be right. 'Hos' is more emphatic; and these 'hos' are distinguished from the other, for he says 'hos duos, quos videtis;' which addition 'quos videtis' seems to me clear proof that he had already said 'hos' before, and not 'illos' or 'eos.' Garatoni proposed to write 'eludere,' which conjecture, says Halm, Wesenberg has learnedly proved to be unnecessary; if the proof was necessary. The infinitive 'illudere' depends on 'quum sciat,' 'knowing . . . that they are playing such an insolent part.'

44. *aedile ipso*] P. Clodius (De Harusp. c. 11).—'diem dixit et accusavit Milonem:' 'diem dicere' has a dative, but here the accusative depends on 'accusavit' (Vol. I. De Divin. c. 20: "scimus M. Silano diem dixisse") Valerius Maximus (vi. 1. 7): "M. Claudius Marcellus aedilis curulis C. Scantinio Capitolino tribuno pl. diem ad populum dixit." It seems that 'diem dicere' is said of a magistratus and the tribuni plebis (Pro Sex. Rosc. Am. c. 12, note; Pro Flacco, c. 32). 'Diem dixit,' he gave him notice of the prosecution. Then Cicero adds 'accusavit:' he stated the charge against Milo and undertook the prosecution. Milo was prosecuted before Sestius, and yet he was still 'reus' when Sestius was acquitted (Ad Q. Fr. ii. 3). His trial had been adjourned (Manutius).

monumenta publica,] The Porticus of Catulus (De Domo, c. 44, note); 'aedes sacras,' the temple of the Nymphae (De Harusp. c. 27); 'domos inimicorum,' the house of M. Tullius and Quintus, and of

aedes sacras, qui domos inimicorum suorum oppugnavit, excidit, incendit, qui stipatus semper sicariis, saeptus armatis, munitus indicibus fuit, quorum hodie copia redundat, qui et peregrinam manum facinorosorum concitavit et servos ad caedem idoneos emit et in tribunatu carcerem totum in forum effudit, volitat aedilis, accusat eum, qui aliqua ex parte ejus furorem exsultantem repressit: hic, qui se est tutatus sic ut in privata re deos penates suos, in re publica jura tribunatus atque auspicia defenderet, accusare eum moderate, a quo ipse nefarie accusatur, per senatus auctoritatem non est situs.

Nimirum hoc illud est, quod de me potissimum tu in accusatione quaesisti, quae esset nostra natio optimatium; sic enim dixisti. Rem quaeris praeclaram juventuti ad discendum nec mihi difficilem ad perdocendum; de qua pauca, judices, dicam: et, ut arbitror, nec ab utilitate eorum qui audient, nec ab officio vestro nec ab ipsa caussa P. Sestii abhorrebit oratio mea. XLV. Duo genera semper in hac civitate fuerunt eorum qui versari in re publica atque in ea se excellentius gerere studuerunt; quibus ex generibus alteri se populares, alteri optimates et haberi et esse voluerunt. Qui ea quae faciebant quaeque dicebant multitudini jucunda volebant esse, populares; qui autem ita se gerebant, ut sua consilia optimo cuique

Milo (Ad Att. iv. 3) (Manutius).—'per senatus auctoritatem:' c. 41.

Nimirum hoc illud est,] Milo was prevented from prosecuting Clodius by the 'auctoritas' of the Senate; and this was a judgment of the Senate in favour of Clodius and against Milo, or it might be viewed as an expression of the opinion of the 'summus ordo' in favour of Clodius. The accusator had said something contemptuously about the 'natio optimatium,' whom Cicero assumed to be with him, while the 'auctoritas' of the Senate was against him; and Cicero takes the opportunity of saying who the Optimates are.

45. *studuerunt;*] Ernesti proposed 'studerent,' which would plainly spoil the sense; for as Wunder, cited by Halm, observes, 'ii qui studuerunt' are a definite class, and they are here divided into two parts.

populares . . . optimates] See Vol. I. Verr. ii. 5. c. 6, note on 'populares aut nobiles;' and Vol. II. De Leg. Agr. ii. 4; and Becker (Handbuch der Röm. Alt. ii. 1, p. 233) who says that "the Roman Optimates did not exactly correspond to the description in this chapter; there were at least different fractions among them, and naturally, especially in the Ordo Senatorius, no small number of Ultra-Tories, as Cicero, Pro Cluentio, c. 55, admirably paints them: 'ii qui se volunt posse omnia,'" &c., and the note (Vol. II.). The Germans show their newly got knowledge of political life by modernizing antiquity, which is just as if a Paris milliner should dress the Venus of Milo in the fashion of the day.

Machiavelli understood these things better. He was a man of sense and of great experience (Istor. Fiorent. iv.). States, and especially those which are not well constituted, which are administered under the name of Republics, often change their government and condition, but the fluctuation is not between liberty and servitude, as many suppose, but between servitude and licence. It is only the name of liberty which is in the mouth of the ministers of licence who are the popular leaders, and the ministers of servitude who are the nobles: both of them wish to be subject neither to the laws nor to men.—This is the true character of a Popular and an Aristocratic party, or whatever is the name by which the opposite to Popular is better marked.

probarent, optimates habebantur. Quis ergo iste optimus quisque? Numero si quaeris, innumerabiles:—neque enim aliter stare possemus:—sunt principes consilii publici, sunt qui eorum sectam sequuntur, sunt maximorum ordinum homines, quibus patet curia, sunt municipales rusticique Romani, sunt negotii gerentes, sunt etiam libertini optimates. Numerus, ut dixi, hujus generis late et varie diffusus est; sed genus universum, ut tollatur error, brevi circumscribi et definiri potest. Omnes optimates sunt, qui neque nocentes sunt nec natura improbi nec furiosi nec malis domesticis impediti. Est igitur, ut ii sint quam tu nationem appellasti, qui integri sunt et sani et bene de rebus domesticis constituti. Horum qui voluntati, commodis, opinioni in gubernanda re publica serviunt, defensores optimatium ipsique optimates gravissimi et clarissimi cives numerantur et principes civitatis. Quid est igitur propositum his rei publicae gubernatoribus, quod intueri et quo cursum suum dirigere debeant? Id quod est praestantissimum maximeque optabile omnibus sanis et bonis et beatis, cum dignitate otium. Hoc qui volunt omnes optimates; qui efficiunt, summi viri et conservatores civitatis putantur. Neque enim rerum gerendarum dig-

principes consilii publici,] The principal senators, and those who attach themselves to them (qui eorum sectam sequuntur). Abrami thought that 'maximorum . . . curia' meant those who had not yet been invited by the censors to take their seat in the Senate, but who having had the 'honores' came into the Senate 'et sententiae jus habebant.' But Ferratius remarks that Cicero is speaking of noble youths and Equites who might arrive at the Senate by the 'honores,' and had not yet attained them.

negotii gerentes,] 'negotia' G. Halm refers to Pro Quintio, c. 19: "eques Romanus locuples sui negotii bene gerens;" see the note (Vol. II.).

Omnes optimates] 'Furiosi' is madmen, but here he means bad men, whose passions are violent, I suppose. The men 'domesticis malis impediti' are men in debt, or at least poor, though there is a difference. Manutius takes it to mean poor men, and he acutely remarks that poverty easily drives to crime. But Cicero cannot mean simply poor, for a man may be poor and content, and honest. He means men who wanted money and had other wants too, which money alone could satisfy; and such men may do any thing (c. 46). Cicero's definition of Optimates was enough to make his hearers laugh. Halm says all this (cc. 45, 46) is an 'egregius locus,' and it has been put by three German critics in their books for the edification of German youth.

Est igitur, ut] 'esto igitur' G. Madvig conjectures 'sequitur ut;' Bake 'efficitur ut;' and Ieep 'en igitur.' The meaning is, if the text is right: "The fact then is that the honest and sound, and those who are well settled in their domestic affairs, are the men whom you have called a 'natio.'" Halm remarks that the subject is 'qui integri sunt,' and 'ii quam tu nationem appellasti' is the predicate; which is a true remark.

defensores optimatium] Halm says that Orelli and Klotz placed a comma after 'optimates,' which might have done no harm in itself, but they misunderstood the passage completely, for they thought that the 'defensores optimatium' were different from the 'ipsi optimates.' Cicero says: "Those who serve the wishes, the interests, and the opinions of these men in the administration of the state are the defenders of the 'optimates,' and themselves are reckoned the most solid of the 'optimates,' the most illustrious citizens and the chiefs of the state;" as Halm has correctly explained it.

Neque enim . . . a dignitate.] Halm commends Seyffert's translation of this passage, with the exception of his translation

nitate homines efferri ita convenit ut otio non prospiciant, neque ullum amplexari otium quod abhorreat a dignitate.

XLVI. Hujus autem otiosae dignitatis haec fundamenta sunt, haec membra, quae tuenda principibus et vel capitis periculo defendenda sunt: religiones, auspicia, potestates magistratuum, senatus auctoritas, leges, mos majorum, judicia, juris dictio, fides, provinciae, socii, imperii laus, res militaris, aerarium. Harum rerum tot atque tantarum esse defensorem et patronum magni animi est, magni ingenii magnaeque constantiae. Etenim in tanto civium numero magna multitudo est eorum, qui aut propter metum poenae peccatorum suorum conscii novos motus conversionesque rei publicae quaerant, aut qui propter insitum quendam animi furorem discordiis civium ac seditione pascantur, aut qui propter implicationem rei familiaris communi incendio malint quam suo deflagrare. Qui quum tutores sunt et duces suorum studiorum vitiorumque nacti, in re publica fluctus excitantur, ut vigilandum sit iis qui sibi gubernacula patriae depoposcerunt, enitendumque omni scientia ac diligentia, ut conservatis iis quae ego paullo ante fundamenta ac membra esse dixi tenere cursum possint et capere otii illum portum

of 'rerum gerendarum;' and the exception is just. There is no great difficulty in the meaning, nor more in the translation than in many other passages: "For it is neither right for men to be so far exalted by the honour of public employment as to have no concern for their tranquillity, nor to cling to a tranquillity which is inconsistent with honour."

46. *aerarium.*] Orelli tells us to observe that the 'aerarium,' the treasury, the money bags, which in our times is the first 'membrum' of states, is here placed the last; for it is a climax from the greater to the less, as the rank of a consular required. He adds, and it is worth noting, that the Declamator, Quum Senatui, c. 7, puts 'aerarium' first. So he does, and properly enough there.

qui aut propter metum poenae] Halm refers to Tacitus (Ann. iii. 40), where he is speaking of the insurrection of Florus and Sacrovir, whose associates were either impoverished men or men who were guilty of crimes and feared punishment. Cicero enumerates three kinds of men who are revolutionists; men guilty of great crimes, men of furious passions who get their profit out of civil commotion, and men who are embarrassed in their circumstances. He does not, I suppose, by 'discordiis . . . pascantur' mean any thing different from what I have said. The elements of revolution always exist in all states, but there are now other kinds of revolutionists and other motives, besides these three base motives; though these have had their effect in modern times, and one of the French revolutions is a revolution of insolvents. But there is a modern revolutionist whom neither Cicero nor the men of his time had seen and could not conceive; a man who honestly wishes to make men happier and better by breaking their bonds and setting them free, and with as little self-regard in pursuing his object as the weakness of our common nature will allow. In other words Cicero knew no revolutionist who was not a bad man. Modern times have revolutionists of both kinds, bad and good; some whose purpose is good; others whose purpose is bad. I speak not of the badness or goodness, of the wisdom or the folly of the means employed by the honest revolutionist. I only speak with a view to Cicero's text, the motives to revolution. In modern times the motive to revolution is often perfectly pure; a virtue of which antiquity, so far as I know, has very few examples. But perhaps there are some.

tutores] P. G. The common reading is 'auctores.'

et dignitatis. Hanc ego viam, judices, si aut asperam atque arduam aut plenam esse periculorum aut insidiarum negem, mentiar; praesertim quum id non modo intellexerim semper, sed etiam praeter ceteros senserim.

XLVII. Majoribus praesidiis et copiis oppugnatur res publica quam defenditur, propterea quod audaces homines et perditi nutu impelluntur et ipsi etiam sponte sua contra rem publicam incitantur: boni nescio quo modo tardiores sunt et principiis rerum neglectis ad extremum ipsa denique necessitate excitantur, ita ut nonnumquam cunctatione ac tarditate, dum otium volunt etiam sine dignitate retinere, ipsi utrumque amittant. Propugnatores autem rei publicae qui esse voluerunt, si leviores sunt, desciscunt; si timidiores, desunt: permanent illi soli atque omnia rei publicae caussa perferunt, qui sunt tales, qualis pater tuus, M. Scaure, fuit, qui a C. Graccho usque ad Q. Varium seditiosis omnibus restitit, quem

47. *Majoribus praesidiis*] Halm has copied out some of the trite commonplaces of the commentators on this chapter. This is one on 'principiis rerum;' 'contra regulam illam, *principiis obsta*,' from Gesner, the Declamator's friend, I suppose.

Cicero's remark was perhaps true of Rome; it is perhaps true of all democracies, though Rome was not a democracy. But it is not true of modern states which are not democracies. In these states the defence is more vigorous than the attack: the vigilance of those who are threatened equals the activity of the assailant, and in unity and resources those who hold power are stronger than those who would overthrow it. A democracy is more easily assailed than a despotism or a mixed government; for in a democracy those to whom power is delegated may use it against those who trust them with it. But there is one security for all governments or any government in these times. We live in the age of gold, not the golden age; and whatever may be the revolutions of modern society, there is one thing which will always be safe. The 'aerarium,' the treasury, the public funds, the associations for enterprises of industry, and the enormous wealth which so many now possess and all covet, is the Palladium of modern states. This Palladium is not the image of liberty, nor an image which has come down from heaven: it is an image of gold, which is worshipped with all sincerity and faith; and for which we are ready to sacrifice our liberty, our honour, and our lives.

pater tuus,] The father was M. Aemilius Scaurus, consul B.C. 115. The son Scaurus whom Cicero addresses was the praetor who sat as judge in this trial.

a C. Graccho usque ad Q. Varium] From B.C. 123 to B.C. 90. Aurelius Victor, De Vir. Illust. iii. c. 72: "tantumque auctoritate potuit (Scaurus) ut Opimium contra Gracchum, Marium contra Glauciam et Saturninum armaret." From this passage only Freinsheim (Supp. Liv. 61. c. 20) and after him Heinrichsen (Cic. De Or. ii. c. 25) seem to have conjectured that the SCtum which authorized Opimius to see 'Ne quid Res Publica detrimenti caperet' was passed on the motion of Scaurus (Halm).

Q. Varium] Halm quotes a note from Asconius in Scaurianam, p. 22: "The Italic war having broken out, and owing to the 'civitas' having been refused to the Italians, the nobles being very unpopular, Q. Varius trib. pl. carried a Lex to the effect that there should be an investigation into the case of those by whose aid or advice the Italians had taken up arms. Then Q. Caepio, an old enemy of Scaurus, thinking he had got an opportunity of crushing him, induced Q. Varius to summon Scaurus before him on the charge of stirring up the war. Scaurus was seventy-two years old, and ill; but he came to the Forum, and spoke thus: 'Q. Varius Hispanus says that M. Scaurus princeps senatus has called the Socii to arms. M. Scaurus princeps senatus denies it; there is no witness; which of the two, Quirites, should you believe?' These words so changed men's minds, that even the tribune let him go."

numquam ulla vis, ullae minae, ulla invidia labefecit; aut qualis Q. Metellus, patruus matris tuae, qui quum florentem hominem in populari ratione, L. Saturninum, censor notasset, quumque insitivum Gracchum contra vim multitudinis incitatae censu prohibuisset, quumque in eam legem, quam non jure rogatam judicarat, jurare unus noluisset, de civitate maluit quam de sententia demoveri; aut —ut vetera exempla, quorum est copia digna hujus imperii gloria, relinquam neve eorum aliquem qui vivunt nominem,—qualis nuper Q. Catulus fuit, quem neque periculi tempestas neque honoris aura potuit umquam de suo cursu aut spe aut metu demovere.

XLVIII. Haec imitamini, per deos immortales, qui dignitatem, qui laudem, qui gloriam quaeritis. Haec ampla sunt, haec divina, haec immortalia: haec fama celebrantur, monumentis annalium mandantur, posteritati propagantur. Est labor; non nego: pericula magna; fateor, 'Multae insidiae sunt bonis:' verissime dictum est. Sed [te]

labefecit;] "Haec forma vix alibi quam hic reperitur apud Ciceronem; semper ut c. 60 *labefactare*" (Orelli).

Q. Metellus,] Numidicus, whose niece Caecilia Metella married M. Scaurus princeps senatus. After Scaurus' death Caecilia married the dictator L. Sulla. Plutarch (Sulla, cc. 6 and 33) calls her Caecilia in one passage and Metella in the other, and he was mistaken about her parentage.

florentem . . . in populari ratione,] Halm translates this "einen der eifrigsten und beliebtesten Volksfreunden," "one of the most zealous and most beloved of the friends of the people;" which, he says, he would not have translated if he had not observed that some persons had misunderstood the words. He refers to c. 53, "in populari ratione;" Brutus, c. 27; De Legg. iii. 16. No language is so difficult to translate as Latin. Halm has given the meaning; but the expression might perhaps be mended.

censor notasset,] Appian, B. C. i. 28: "The censor Q. Caecilius Metellus attempted to deprive of their rank, on account of their scandalous lives, Glaucias who was a senator, and Apuleius Saturninus who had been a tribune; but he could not do it, for his colleague did not agree with him" (Halm). See Pro Cluentio, c. 42, on the 'censoria nota.'

insitivum Gracchum] A fellow who pretended to be Ti. Gracchus' son. Pro C. Rabirio, c. 7, note, Vol. II.—'eam legem:' the Agraria Lex of Apuleius Saturninus, c. 16.

nuper Q. Catulus] The son of Catulus the colleague of Marius. He was now dead.

honoris aura] Mueller compares 'ventus contionum,' 'ventus popularis,' and some other expressions, but most of them, as Halm says, are not to the purpose. Halm explains 'honoris aura' to be the pleasant hope of honour by which a person is breathed on. He translates it "der lockende Hauch s. die Lockung der Ehre;" the alluring breath of honour. Honor is the Roman Honor, the high offices of the state. Horace has a use of 'aura' like this in the ode to Barine (ii. 8), where he says that the newly married women fear you

"—— tua ne retardet
Aura maritos."

See Bentley's note. Bentley thought of writing 'cura' for 'aura,' but he did not. The 'aura' is explained by Porphyrion to be "amoris aura quae ad te eos fert" (Macleane's Horace).

48. *Multae insidiae bonis:*] These words are supposed to be from the Atreus of Accius. Compare Pro Plancio, c. 24: "Quin etiam . . . haec illi soleo praecipere . . . quae ille a Jove ortus suis praecepit filiis: Vigilandumst semper: multae insidiae sunt bonis—nosti cetera." Wunder (Prolegomena to his edition of the Pro Plancio, p. lvii.) has a long note on this passage, and on that in the Pro Plancio. The line

"Vigilandumst semper: multae insidiae sunt bonis,"

Id, quod multi invideant multique expetant, inscitia est, inquit,

Postulare, nisi laborem summa cum cura ecferas.

Nollem idem alio loco dixisset, quod exciperent improbi cives: 'Oderint, dum metuant:' praeclara enim illa praecepta dederat juventuti. Sed tamen haec via, haec ratio rei publicae capessendae olim erat magis pertimescenda, quum multis in rebus multitudinis studium aut populi commodum ab utilitate rei publicae discrepabat. Tabellaria lex ab L. Cassio ferebatur. Populus libertatem agi putabat suam. Dissentiebant principes et in salute optimatium temeritatem multitudinis et tabellae licentiam pertimescebant. Agrariam Ti. Gracchus legem ferebat. Grata erat populo: fortunae constitui tenuiorum videbantur. Nitebantur contra optimates, quod et discordiam excitari videbant et, quum locupletes possessionibus diuturnis moverentur, spoliari rem publicam propugnatoribus arbitrabantur. Frumentariam legem C. Gracchus ferebat.

seems to be incomplete in Cicero, for it was originally a trochaic tetrameter catalectic. The line in the Sestius is faulty in beginning with 'te' if it is from the Atreus, for the father is addressing his sons. Orelli placed the 'te' before 'Postulare.'

"Sed id quod . . .
Te postulare . . ."

following "Botheum, communem illum antiquorum scriptorum corruptorem;"—he is a man to be warned against, this Bothe;—but Orelli afterwards wrote thus:

"Te id quod . . .
Postularem, si
Nullum."

Wunder thinks that Nobbe most truly saw that these were tetrameter trochaic catalectics. The wonder is that any body with ears could take them for any thing else than trochaics. Wunder finally would write the verses thus:

"Id quod multi . . .
Postulare, si laborem
Nullum."

P. G. have 'sed te' (but P[1] 'et de'): 'postularent (postulare P[2]) sivi' P. G. Wesenberg's 'Postulare nisi' is as good as any thing we can make out.

Oderint, dum metuant:] These words are quoted by Cicero, De Off. i. 28, and Seneca, De Ira i. 16; but the author is not mentioned. As however Cicero makes them the words of Atreus, it is probable that they are by Attius or Accius. Halm compares Tacitus (Ann. xiv. 9): "occidat dum imperet," the words of Agrippina when her son Nero's future elevation and her own death at his hands were foretold to her.

haec via, haec ratio] "'haec via ac ratio' Orelli (3), Halm (2); 'haec via hec (sed *h* est in ras.) ratio' P.; 'haec via haec ratio' G." (Halm).—'aut populi:' "'*aut*' Iacob. p. 713; '*ad*' P. G.; '*ac*' O. ex conj. Lamb." (Halm).

Tabellaria lex] The Lex of C. Cassius Longinus, tr. pl. B.C. 137, which enacted that the people should vote by ballot in the Judicia Publica at the Comitia Centuriata. The Lex Tabellaria of Gabinius which established the ballot at the Comitia for elections was two years earlier: "Videtis in tabella jam ante quanta facta sit labes, primo Gabinia lege, biennio autem post Cassia" (De Am. c. 12). The Optimates did not like the Tabellaria of Cassius, for they feared that if there was secret voting, the vote might be against them; and there was good reason for their fear. There is greater 'licentia,' says Manutius, where the vote is given secretly (per tabellas): greater liberty, and greater licence too. But secret voting for a magistratus, and secret voting on a man's guilt or innocence are very different things.

Agrariam] The Agraria Lex of Ti. Gracchus in his tribunate for the division of the public land among the poor. Vol. II. Introduction to the orations against Rullus.

Frumentariam] See c. 25. If the Leges

Jucunda res plebei; victus enim suppeditabatur large sine labore. Repugnabant boni, quod et ab industria plebem ad desidiam avocari putabant et aerarium exhauriri videbatur.

XLIX. Multa etiam nostra memoria, quae consulto praetereo, fuerunt in ea contentione, ut popularis cupiditas a consilio principum dissideret. Nunc jam nihil est quod populus a delectis principibusque dissentiat; nec flagitat rem ullam neque novarum rerum est cupidus et otio suo et dignitate optimi cujusque et universae rei publicae gloria delectatur. Itaque homines seditiosi ac turbulenti, quia nulla jam largitione populum Romanum concitare possunt, quod plebes perfuncta gravissimis seditionibus ac discordiis otium amplexatur, conductas habent contiones; neque id agunt ut ea dicant aut ferant quae illi velint audire qui in contione sunt, sed pretio ac mercede perficiunt ut quidquid dicant, id illi velle audire videantur. Num vos existimatis Gracchos aut Saturninum aut quemquam illorum veterum, qui populares habebantur, ullum unquam in contione habuisse conductum? Nemo habuit. Ipsa enim largitio et spes commodi propositi sine mercede ulla multitudinem concitabat. Itaque temporibus illis, qui populares erant, offendebant illi quidem apud graves et honestos homines, sed populi judiciis atque omni significatione florebant. His in theatro plaudebatur; hi suffragiis quod contenderant consequebantur; horum homines nomen, orationem, vultum, incessum amabant. Qui autem

Frumentariae are correctly described, Cicero has touched on a great political evil. To supply abundantly the means of living without labour is the way to encourage idleness. It seems that these distributions of corn and sales of corn at a price lower than the market price were not intended solely to relieve the poor, but were means of getting popularity and votes. I do not know that there is any thing to show that this distribution was made to any except those who were in Rome, but the number was large at this time: in the thirteenth consulship of Augustus two hundred thousand persons or something more (Dion 54. c. 15; Monumentum Ancyranum).

videbatur.] "'*videbant*' Momms., Halm (2); '*videbantur*' P. G[1].; '*videbatur*' P[2]. G[2]." (Halm).

49. *nostra memoria,*] As we say, within the memory of man, an expression which will comprehend all the period from Cicero's birth to the time when he is speaking.—'Nunc jam:' 'jam' marks the emphasis on the time 'nunc.'

amplexatur,] An emendation of Madvig, founded on the readings 'malexatur,' 'maleuexatur,' and 'malelaxatur.'

Num vos existimatis, &c.] Rubino, quoted by Halm, says that even Cato afterwards approved of money being distributed among the people (Sueton. Jul. c. 19). The occasion on which Suetonius tells us this was Caesar's election for the consulship. Caesar made a coalition with Lucceius, one of the candidates, on the terms that Lucceius, who was less popular than Caesar, should supply all the money to bribe the electors. Upon this the Optimates, who were afraid of what Caesar would do in his consulship, if he had a colleague like himself, advised Bibulus who was the third candidate to promise as much, "and most of them contributed money, and even Cato did not deny that this bribery was for the interest of the state." All this belongs to the subject of bribery at elections; and it is instructive. Here Cicero is speaking of a different thing.

populi judiciis] This means by the opinions which the people showed on such occasions, as he afterwards mentions.

adversabantur ei generi, graves et magni homines habebantur; sed valebant in senatu multum, apud bonos viros plurimum: multitudini jucundi non erant, suffragiis offendebatur saepe eorum voluntas; plausum vero etiam si quis eorum aliquando acceperat, ne quid peccasset pertimescebat. Attamen, si quae res erat major, idem ille populus horum auctoritate maxime commovebatur.

L. Nunc, nisi me fallit, in eo statu civitas est ut, si operas conductorum removeris, omnes idem de re publica sensuri esse videantur. Etenim tribus locis significari maxime populi Romani judicium ac voluntas potest, contione, comitiis, ludorum gladiatorumque consessu. Quae contio fuit per hos annos, quae quidem esset non conducta, sed vera, in qua populi Romani consensus perspici non posset? Habitae sunt multae de me a gladiatore sceleratissimo,

sed valebant] Bake proposes to write 'et valebant.' Halm thinks that the change is not necessary. He compares Pro Flacco, c. 4: "sed sunt in illo numero . . . multi imprudentes," &c.; where 'sed sunt' refers to 'multi imprudentes.' And here, he says, we must understand it 'sed . . . multitudini jucundi non erant.'

suffragiis offendebatur] Their will was thwarted by the popular vote, when they or their friends being candidates were rejected by the people (Manutius). It might happen that their will was also thwarted in the 'comitia' for the enactment of Leges (Halm).

ne quid peccasset] These Optimates were very scrupulous men, as Cicero represents them, really 'graves et magni homines.' They suspected that popular applause, if they ever got it, was given them for something of which they ought to be ashamed. This is a useful hint. Abrami, who in his collection of tons of matter has a few pearls mixed with the rest, quotes a passage of Plutarch (Apophtheg. p. 188). It is a saying of Phocion, a wise man: "On one occasion when he was speaking before the people, being well received, and seeing that all of them were readily taking his words, he turned round and said to his friends: Surely I must by mistake have said something bad." And a saying of Antisthenes to the like effect is recorded by Diogenes Laert. vi. 1: πρὸς τὸν εἰπόντα Πολλοί σε ἐπαινοῦσι, Τί γάρ, ἔφη, κακὸν πεποίηκα;

50. *nisi me fallit,*] 'If I am not deceived.' Compare Pro Caelio, c. 19; Ad Att. xiv. 12: "sed nos, nisi me fallit, jacebimus."—'operas conductorum.' Mueller and Madvig think that 'conductorum' is a gloss, for 'operae' are the hirelings of Clodius, and we can no more say 'operae conductorum' than 'homines Romanorum.' If 'operae' corresponded to 'homines' the objection of Madvig would be good, but, as Halm observes, it is an abstract noun. 'Operae' in the sense of 'operarii' does not differ at all from 'virtus' for 'vir fortis;' nor, as Halm says, does 'operae conductorum' differ from 'copiae peditum,' 'auxilia popularium,' and similar expressions. Halm also compares De Domo, c. 30: "conductis operis non solum egentium sed etiam servorum;" and Varro De R. R. i. 17: "cum conducticiis liberorum operis res majores ut vindemias et foenisicia administrant."

locis] Manutius thought that 'locis' meant 'places,' the Forum, the Campus, the Theatrum. Halm thinks that it means 'on three occasions' (bei drei Gelegenheiten); and there is no doubt that it does.

non posset?] The MSS. have not 'non.' It was added by Lambinus. Klotz does not accept the 'non,' and he gives this translation of the passage: "What popular assembly was held during these years, an assembly, I mean, not hired, but a real assembly, so that one could recognize in it the unanimous judgment of the Roman people?" He says that the words 'in qua populi . . . posset' contain merely an explanation of the adjective 'vera,' and must not be taken as an appendage to the whole sentence. If the 'non' is not accepted, we must of course take Klotz's explanation. Cicero begins by saying that the real opinion of the Roman people can be ascertained at the 'contiones.' If he then said what Klotz supposes that he said, he would say that all the 'contiones' 'per hos annos' were hired and bribed. Then he would say that all the gladiator's 'contiones' (de

ad quas nemo adibat incorruptus, nemo integer: nemo illum foedum vultum adspicere, nemo furialem vocem bonus audire poterat. Erant illae contiones perditorum hominum necessario turbulentae. Habuit de eodem me P. Lentulus consul contionem: concursus est populi Romani factus; omnes ordines, tota in illa contione Italia constitit. Egit caussam summa cum gravitate copiaque dicendi, tanto silentio, tanta approbatione omnium, nihil ut umquam videretur tam populare ad populi Romani aures accidisse. Productus est ab eo Cn. Pompeius, qui se non solum auctorem meae salutis, sed etiam supplicem populo Romano *praebuit.* Hujus oratio ut semper gravis et grata in contionibus fuit; sic contendo numquam neque eloquentia neque jucunditate fuisse majore. Quo silentio sunt auditi de me ceteri principes civitatis! quos idcirco non appello hoc loco, ne mea oratio, si minus de aliquo dixero, ingrata, si satis de omnibus, infinita esse videatur. Cedo nunc ejusdem illius inimici mei de me eodem ad verum populum in campo Martio contionem! Quis non modo approbavit, sed non indignissimum facinus putavit illum non dicam loqui, sed vivere ac spirare? quis fuit qui non ejus voce maculari rem publicam, seque, si eum audiret, scelere adstringi arbitraretur?

LI. Venio ad comitia sive magistratuum placet sive legum. Leges videmus saepe ferri multas. Omitto eas quae feruntur ita, vix ut quini, et ii ex aliena tribu, qui suffragium ferant reperiantur.

me) were hired and consequently turbulent, and not a real expression of opinion. Then he would say next that the 'contio' of P. Lentulus (de me) was not hired, and it did express the true opinion of the people. So, according to Klotz, Cicero first lays down the general proposition that the popular will can be ascertained from the 'contiones,' but (per hos annos) it had never been ascertained, because there was no real 'contio;' and it had not been ascertained by the 'contiones' of Clodius, but it had been ascertained by the 'contio' of Lentulus. Is there any way of showing plainer that Cicero, if he said this, would be contradicting himself? or any way of showing plainer that Klotz has mistaken the meaning?

Erant] Madvig acutely saw that the common reading 'Erant, erant' was false, for Cicero says not 'they were,' but they were 'necessario turbulentae.' 'Erant' G., 'erant erant' P., 'erant enim' S.

praebuit.] om. P. G., 'exhibuit' S. Madvig, who wrote 'praebuit,' says that 'exhibere se auctorem' does not occur in writers before the age of Suetonius.

Hujus oratio . . . majore.] Spengel's emendation, followed by Halm (2): 'et pergravis et grata in contionibus fuit, sic contendo numquam neque eloquentiam jucunditate fuisse majorē' P.; before 'eloquentiam' there is added 'm. 2 recentiore' 'sententiam ejus auctoritate neque,' as the passage is written in G. Madvig proposes to omit 'Hujus oratio . . . fuit.'

ne mea oratio . . . infinita esse videatur.] Compare with this passage a bit of the Declamator's work, Quum Senatui, c. 12: "Vobis vero, patres conscripti," &c. After the genuine Cicero, this is stale and loathsome; and yet there are people who can relish it.

illius inimici] When Clodius was speaking against the Lex for Cicero's restoration (Halm).—'in campo Martio:' in the Campus Martius, in which the Centuriata Comitia were usually held (Hotmann).

51. *vix ut quini,* &c.] "That scarcely five of each tribe, and those not from their own tribe, voted." "Ut aliquam tributorum comitiorum speciem exhiberet, eos [ex tribubus urbanis et si quos homines ex ce-

De me, quem tyrannum atque ereptorem libertatis esse dicebat illa ruina rei publicae, dicit se legem tulisse. Quis est qui se, quum contra me ferebatur, inisse suffragium confiteatur? Quum autem de me eodem ex senatus consulto comitiis centuriatis ferebatur, quis est qui non profiteatur se adfuisse et suffragium de salute mea tulisse? Utra igitur caussa popularis debet videri, in qua omnes honestates civitatis, omnes aetates, omnes ordines una consentiunt, an in qua furiae concitatae tamquam ad funus rei publicae convolant? An, sicubi aderit Gellius, homo et fratre indignus, viro clarissimo atque optimo consule, et ordine equestri, cujus ille ordinis nomen retinet, ornamenta confecit, id erit populare?—"Est enim homo iste populo Romano deditus."—Nihil vidi magis; qui, quum ejus adolescentia in amplissimis honoribus summi viri, L. Philippi, vitrici, florere potuisset, usque eo non fuit popularis ut bona solus comesset. Deinde ex impuro adolescente et petulante, posteaquam rem paternam ab idiotarum divitiis ad philosophorum regulam perduxit, Graeculum se atque otiosum putari voluit, studio litterarum se subito dedidit. Nihil † saneate juvabant anagnostae; libelli pro vino etiam saepe oppignerabantur; manebat insaturabile abdomen, copiae deficiebant. Itaque semper versabatur in spe rerum novarum: otio et tranquillitate rei publicae consenescebat.

teris tribubus rusticis nactus erat] in triginta quinque tribus [ne qua deesse videretur] sic distribuebat, ut in singulis tribubus vix quini et ii quidem ex aliena tribu in eas allecti ferrent suffragium" (Halm ex Abram.).

omnes honestates civitatis,] "All the respectabilities of the state:" "alle Nobilitäten der Bürgerschaft" (Halm), who compares 'dignitates,' Liv. 22. c. 40, and 'nobilitates,' Tacit. Ann. xii. 20.

fratre indignus,] The Scholiast says that L. Gellius was the 'frater uterinus' of L. Marcius Philippus, one of the consuls of this year, B.C. 56.

ornamenta confecit,] The 'ornamenta' are all by means of which any thing is maintained (Halm). This man wasted his fortune, he had not the 'equestris census' (Hor. Ep. i. 1. 57), but he still retained his rank, for the censors had not degraded him. Halm observes that after B.C. 70 there was no regular 'lustrum,' till Augustus, B.C. 28, re-established it.

id erit populare?] "If Gellius shall show himself any where—will that be popular?" Will he please the people by showing himself?—'populo R. deditus:' an allusion, as Manutius suggests, to his name Poplicola.

vitrici . . . comesset.] His stepfather was L. Philippus, consul B.C. 91. Cicero is joking again about his popular qualities; "so far as this he was not popular or a friend to the people, for he eat up all his substance and gave them nothing."

idiotarum] The 'idiota' is opposed to the 'philosophus,' the common man to the philosopher. (See Vol. I. Verr. ii. 4. c. 2). When the man got poor, he affected the philosopher.

Graeculum] Halm quotes Cicero, De Or. i. c. 22: "Quid, mihi nunc vos tamquam alicui Graeculo otioso et loquaci . . , quaestiunculam, de qua meo arbitratu loquar, ponitis?" and he remarks that 'otiosus' corresponds to the Greek σχολαστικός: as in Plutarch (Cicero, c. 5): Γραικὸς καὶ σχολαστικός. Juv. iii. 78, 'Graeculus.'

Nihil saneate, &c.] The 'viri docti' have laboured hard to mend this; and he who would read all they have written will get only labour for his pains. Cicero is speaking about 'anagnostae' or 'readers,' and 'libelli,' and 'pawning;' but it is impossible to restore the text.

in spe rerum novarum] P. G. Halm (1) has written 'in rerum novarum studio,' the other MSS. omitting 'spe' and having no

LII. Ecquae seditio umquam fuit in qua non ille princeps? ecqui seditiosus cui ille non familiaris? ecquae turbulenta contio cujus ille non concitator? cui bene dixit umquam bono? bene dixit? immo, quem fortem et bonum civem non petulantissime est insectatus? qui, ut credo, non libidinis caussa, sed ut plebicola videretur, libertinam duxit uxorem. Is de me suffragium tulit, is adfuit, is interfuit epulis et gratulationibus parricidarum. In quo tamen est me ultus, quum illo ore inimicos est meos saviatus; qui, quasi mea culpa bona perdiderit, ita ob eam ipsam caussam est mihi inimicus, quia nihil habet. Utrum ego tibi patrimonium eripui, Gelli, an tu comedisti? Quid, tu meo periculo, gurges ac

word in its place. In (2) he has 'spe.' Orelli has 'cogitatione,' which is from Hervagius. He was always hoping for change; while the state was quiet and tranquil, he was wasting away.

52. *non libidinis caussa,*] Irony, says Manutius, for he plainly means to say that he married a freedwoman 'libidinis caussa.' The irony does not seem very sharp. He had a passion for the woman, I suppose, and she happened not to belong to the class of Cicero's new friends, the 'nobiles.' Again, he tries to make him odious by the name Plebicola, a parody on his name Poplicola.

Halm remarks that it appears from this passage that even now it was a disgrace for a man (an 'ingenuus' of course) to marry a 'libertina.' It hardly appears from this. Cicero wishes to make it appear so. Halm's authority is Becker, who says that there was no 'connubium,' that is, no Roman marriage, between 'ingenui' and 'libertini;' in proof of which he quotes Livy 39. c. 19: "utique Fecenniae . . . ingenuo nubere liceret, neu quid ei qui eam duxisset ob id fraudi ignominiaeve esset;" which only proves that no 'infamia' was the consequence of such a marriage. He also cites this passage, and one from Phil. ii. 2. But Becker is mistaken. The marriage was a marriage. Becker cites Dion Cassius (54. c. 16; 56. c. 7) to show that Augustus permitted such marriages, except to senators. Halm, after saying that it was disgraceful (dedecori), a word that has no political meaning, for a man to marry a 'libertina,' adds, "afterwards it was permitted (licebat) by the Lex Papia Poppaea;" which implies that before this Lex 'non licebat.' All this is confused.

The Lex Julia Papia Poppaea (Ulpian xiii. § 1, 2) prohibited the marriage of a senator and a senator's children with a 'libertina,' but not the marriage of other 'ingenui' with 'libertinae.' But after the enactment of the Lex Papia Poppaea the marriage even of a senator with a 'libertina' was a valid marriage: it only deprived the husband and wife of the advantages which this Lex gave to married people: "aliquando nihil inter se capiunt, id est si contra legem Juliam Papiamque Poppaeam contraxerint matrimonium: verbi gratia, si famosam quis uxorem duxerit aut libertinam senator" (Ulpian xvi. § 2). This means that neither husband nor wife could take any thing by the testament of one another, nor by the testament of a third person. It was not till the time of M. Aurelius that a SCtum declared a marriage between a senator or a senator's children and 'libertini' to be null (Dig. 23. 2. 16). "Both before and after the Lex Papia the marriage of 'ingenui' even with women who were 'infames,' (and 'libertinae,' as such, were not 'infames,') were not null, but merely did not confer the advantages which were attached by the Lex to married life, advantages which related to the capacity to acquire more or less by the last will of a deceased person" (Savigny, System, &c. vol. ii. Beylage vii.).

ultus,] 'ullus' P. G. "Antea *multus* pro *me ultus*, *reo* pro *ore* legebatur. Debetur loci laus praeclare restituti Octavio Pantagatho" (Halm).—'saviatus,' P. G.; 'suaviatus,' the common reading. Halm has here copied a dirty note from Manutius, and made a dirty addition to it. Neither one nor the other seems to me necessary for the explanation of the text.

meo periculo,] This is very difficult to translate, but the meaning is not obscure: "What, was your wasteful extravagance to be at my cost, in such wise that if I as

vorago patrimonii, helluabare, ut, si ego consul rem publicam contra te et gregales tuos defendissem, in civitate esse me nolles? Te nemo tuorum videre vult: omnes aditum, sermonem, congressum tuum fugiunt: te sororis filius Postumius, adolescens gravis, senili judicio, notavit, quum in magno numero tutorem liberis non instituit. Sed elatus odio et meo et rei publicae nomine, quorum ille utri sit inimicior nescio, plura dixi quam dicendum fuit in furiosissimum atque egentissimum ganeonem. Illuc revertor: contra me quum est actum, capta urbe atque oppressa, Gellium, Firmidium, Titium, ejusdem modi furias illis mercenariis gregibus duces et auctores fuisse, quum ipse lator nihil ab horum turpitudine, audacia, sordibus abhorreret. At quum de dignitate mea ferebatur, nemo sibi nec valetudinis excusationem nec senectutis satis justam ullam putavit; nemo fuit qui se non rem publicam mecum simul revocare in suas sedes arbitraretur.

LIII. Videamus nunc comitia magistratuum. Fuit collegium nuper tribunicium, in quo tres minime, vehementer duo populares existimabantur. Ex iis qui populares non habebantur, quibus in illo genere conductarum contionum consistendi potestas non erat, duo a populo Romano praetores video esse factos; et quantum sermonibus vulgi et suffragiis intelligere potui, prae se populus Romanus ferebat sibi illum in tribunatu Cn. Domitii animum constantem et egregium et Q. Ancharii fidem ac fortitudinem, etiam si nihil agere potuissent, tamen voluntate ipsa gratum fuisse. Jam

consul defended the state against you and those of your route, you would not let me stay in it?"

Te nemo tuorum] Abramus compares a passage in the Pro Cluentio, c. 14: "Cum illo nemo jam rationem," &c. Postumius, though young, had the judgment of an old man, and he purposely did not name Gellius one of the 'tutores' of his children, which was a mark of his disapprobation and a reproach to Gellius. So in other cases, not to be named in the will of a near relative was a reproach to him who was passed over. Pro Quintio, c. 4, note, Vol. II. – 'elatus:' 'latus' P[1]. G., Halm (2).

quum est actum,] Madvig's correction. The MSS have 'quum sit actum.'

justam ullam putavit;] "*justam ullam putavit*, scripsi: *justam ut illam putavit* P. G., sed in P. *ut illam* expunctum est: *ullam* om. edd." (Halm.)

53. *collegium*] The Scholiast says that he seems to speak of the 'collegium tribunorum' in the consulship of C. Caesar and Bibulus; the two 'populares' being P. Vatinius and C. Alfius, who supported Caesar's measures, and the three who were not 'populares' being Cn. Domitius Calvinus, Q. Ancharius, and C. Fannius, of whom two were praetors in the year in which this speech was delivered, and the third, Fannius, expected to be praetor. Halm refers to In Vatin. c. 7, where the two praetors are alluded to. He also compares this oration, c. 59: "quibus autem consistere in operarum contionibus non liceat." 'Consistere' means to maintain their ground, as we say. In the Orator, c. 9, Cicero says of Lysias: "non illum quidem amplum atque grandem, subtilem et elegantem tamen et qui in forensibus causis possit praeclare consistere." In the Pro Cluentio, c. 30, there is a use of this word, which, though not quite the same that it has here, helps to explain it.

gratum] P. G., which Halm defends in (1); but in (2) he adopts Manutius' correction 'gratam.' If any alteration is

de C. Fannio quae sit existimatio videmus; quod judicium populi Romani in honoribus ejus futurum sit nemini dubium esse debet. Quid populares illi duo, quid egerunt? Alter, qui tamen se continuerat, tulerat nihil, senserat tantum de re publica aliud atque homines exspectabant, vir et bonus et innocens et bonis viris semper probatus, quod parum videlicet intellexit in tribunatu quid vero populo probaretur, et quod illum esse populum Romanum qui in contione erat arbitrabatur, non tenuit eum locum, in quem, nisi popularis esse voluisset, facillime pervenisset. Alter, qui ita se in populari ratione jactarat, ut auspicia, legem Aeliam, senatus auctoritatem, consulem, collegas, bonorum judicium nihili putaret, aedilitatem petivit cum bonis viris et hominibus primis, sed non praestantissimis opibus et gratia: tribum suam non tulit, Palatinam denique, per quam omnes illae pestes vexare rem publicam dicebantur, perdidit; nec quidquam illis comitiis quod boni viri vellent nisi repulsam tulit. Videtis igitur populum ipsum, ut ita dicam, jam non esse popularem, qui ita vehementer eos qui populares habentur respuat, eos autem qui ei generi adversantur honore dignissimos judicet.

LIV. Veniamus ad ludos. Facit enim, judices, vester iste in me animorum oculorumque conjectus, ut mihi jam licere putem remissiore uti genere dicendi. Comitiorum et contionum signifi-

made, 'grata,' which Manutius also proposes, is better, and Wesenberg approves it.

populares illi duo,] C. Alfius and P. Vatinius. Halm prints it thus: 'Quid? populares illi duo quid egerunt?' which I mention for the benefit of those who may prefer this pointing.—'tulerat nihil:' he is speaking of Alfius. He promulgated a Lex, says Manutius, 'sed non tulit,' and he refers to In Vatin. c. 7.

Alter,] This is P. Vatinius.—'nihili,' Hotmann, 'nihil' P. G.—'hominibus primis:' men of the highest birth; the 'boni viri' are good citizens (Halm).—'tribum suam:' he did not get the votes of his own tribe, the Sergia: In Vatin. c. 15 (Manutius). The Palatina, Esquilina, Collina, and Suburana or Sucusana were the four Urbanae tribus; which were less esteemed than the thirty-one Rusticae (Orelli).

nec quidquam . . . tulit.] He began to speak as if he were going to say, 'nihil quod boni viri vellent (sibi, nihil boni et optabile) tulit.' But he changed the form and added 'nisi repulsam' (quam sane boni viri volebant illi contingere), so that the 'ratio' of the verb 'vellent' is to be changed (Madvig). This is not the meaning of 'quod boni viri vellent;' but it means, as Bake says, 'he got nothing that the honest would have wished him to get, except a rejection.'

populum . . . popularem,] Cicero (quoted by Halm) has a similar play on these words in the De Am. i. 25: "itaque lex popularis suffragiis populi repudiata est;" and De Lege Agraria, ii. c. 11, Vol. II.

54. *remissiore*] Halm explains this to be a 'genus dicendi' which is about things foreign to the 'usus forensis;' and he refers to c. 55: "levitate me ductum ad insolitum genus dicendi labi."

Comitiorum . . . excitare.] He admits that the popular opinion as shown at the 'comitia' and 'contiones' is sometimes not genuine; and he adds, "it is said that it is always the practice in the theatres and at the exhibitions of gladiators for worthless hirelings to raise some feeble applause here and there." "And yet," says Cicero, "it is easy when this happens to see how and by whom it is done and what the honest part of the assemblage does." The 'integra

cationes interdum verae sunt, nonnumquam vitiatae atque corruptae; theatrales gladiatoriique consessus dicuntur omnino solere levitate nonnullorum emptos plausus exiles et raros excitare. Ac tamen facile est, quum id fit, quemadmodum et a quibus fiat et quid integra multitudo faciat videre. Quid ego nunc dicam, quibus viris aut cui generi civium maxime plaudatur? Neminem vestrum fallit. Sit hoc sane leve, quod non ita est, quoniam optimo cuique impertitur; sed, si est leve, homini gravi leve est; ei vero, qui pendet rebus levissimis, qui rumore et, ut ipsi loquuntur, favore populi tenetur et ducitur, plausum immortalitatem, sibilum mortem videri necesse est. Ex te igitur, Scaure, potissimum quaero, qui ludos apparatissimos magnificentissimosque fecisti, ecquis istorum popularium tuos ludos adspexerit, ecquis se theatro populoque Romano commiserit. Ipse ille maxime ludius, non solum spectator, sed actor et acroama, qui omnia sororis embolia novit, qui in coetum mulierum pro psaltria adducitur, nec

multitudo' is the honest part, the part which is not 'corrupta.'

significationes interdum verae sunt, nonnumquam, &c.] This is Halm's text in (1.) In (2) he omits 'interdum verae.' "*significationes sunt nonnumquam* P. sup. lin. m. 2 recentiore ante *sunt* adjectum est *interdum verae sunt; signif. sunt interdum verae sunt nonnumquam* G." (Halm.)

homini gravi] Cicero writing to Atticus (iv. 15) says that he had been applauded on entering the theatre, and adds: "Sed hoc ne curaris: ego ineptus qui scripserim" (Manutius).

favore populi] Quintilian (viii. 3, 34) says that 'favor' and 'urbanus' were new words in Cicero's time (Verr. ii. 1. c. 6, Vol. I.; Ad Fam. iii. 8). Yet 'favor' was used by Lucretius (vi. 47) (Manutius). Mueller thinks that what Quintilian says is idle talk, for Cicero himself uses 'favor' (Pro Rosc. Com. c. 10). Schwartz (quoted by Halm) thinks that the words were used before Cicero's time, but received in his time a new signification. Halm conjectures that 'favor' is a term derived from the stage, and he cites Horace (Ep. ii. 1. 88): "Ingeniis non ille favet plauditque sepultis." It may be so. Horace also has (Carm. iv. 8):

> "Virtus et favor et lingua potentium
> Vatum."

Mueller says, "*Favor* enim est opinio et inane studium, non amor propter justas causas et merita vera;" which I do not accept.

qui ludos] "De aedilitate M. Scauri et opulentia ludorum plenissime dixit in ea oratione, qua ipsum quoque M. Scaurum defendit" (Schol.). He was aedile in B.C. 58, the year of Clodius' tribunate, as appears from what follows.—'theatro . . . commiserit:' Halm compares c. 58: "se populo dedit;" In Pison. c. 27: "Da te populo, committe ludis," and other passages.

maxime ludius,] 'Maxime' is emphatic. "Fuit enim hic vir . . . non solum eruditissimus, sed etiam civis e re publica maxime" (Halm). Ludius is a gladiator (Juv. Sat. vi. 82):

> "Nupta senatori comitata est Hippia ludium
> Ad Pharon,"

where most MSS. have 'ludum.' There is a play on the words 'ludius' and 'ludus.'

acroama,] This word is supposed, as Halm says, to mean the 'tibicen' who accompanied the 'histrio,' unless, he says, you prefer to take it to mean 'a dancer,' as the word sometimes signifies. He refers to Heinrich's note on Juvenal xi. 162, who says "that the general name for persons who danced while guests were at table and for musicians is 'acroama.'"

embolia] Aristotle (Poet. 32) speaks of 'embolia' as 'songs interposed' (intermezzi), something that has nothing to do with the piece. The Romans appear to have given this name to any thing interposed between two plays or acts, even to the gesticulation of 'mimi' and dancing. Cicero, intending to express Clodia's style of dancing by the word 'embolia,' which here

tuos ludos adspexit in illo ardenti tribunatu suo nec ullos alios nisi eos, a quibus vix vivus effugit. Semel, inquam, se ludis homo popularis commisit omnino, quum in templo Virtutis honos habitus esset virtuti, Gaiique Marii, conservatoris hujus imperii, monumentum municipi ejus et rei publicae defensori sedem ad salutem praebuisset.

LV. Quo quidem tempore, quid populus Romanus sentire se ostenderet utroque in genere declaratum est: primo, quum audito senatus consulto rei ipsi atque absenti senatui plausus est ab universis datus; deinde, quum senatoribus singulis spectatum e senatu redeuntibus. Quum vero ipse qui ludos faciebat consul assedit, stantes et manibus passis gratias agentes et lacrimantes gaudio suam erga me benevolentiam ac misericordiam declararunt. At quum ille furibundus incitata illa sua vecordi mente venisset, vix se populus Romanus tenuit; vix homines odium suum a corpore

signifies pretty nearly the same as the French word 'entrechats,' seems to have hinted also at something indecent (Halm.) I do not know whether Halm means to say that an 'entrechat' in itself is indecent; nor am I aware how he knows that this sprightly lady made 'entrechats.' However there is nothing indecent in an 'entrechat:' "espèce de saut léger pendant lequel on croise rapidement les deux pieds à plusieurs reprises" (C. Nodier, Vocabulaire de la Langue Française).

psaltria] The old story of the Bona Dea and Clodius getting into Caesar's house in the dress of a female lute-player (De Harusp. c. 21). Comp. Juven. vi. 336.

vix vivus] On the day on which the SCtum about Cicero's return was made in the Templum Virtutis, the 'ludi' were celebrated, to which Clodius came after the Senate had ended their sitting (Manutius).

in templo Virtutis] A., 'virtu**s honoris' P., 'honoris' G. Halm (1) has 'in templo Virtutis-Honoris,' the reading of the Erf. MS. perhaps. In (2) he has the reading in the text. C. Marius erected a temple to Virtus or to Honos, or to Virtus and Honos, somewhere about the Capitol. The Monumentum Marii is mentioned in the Scholia to the Pro Plancio, c. 32, where it is called 'templum Honoris et Virtutis.' Cicero (De Divin. i. 28) mentions the SCtum about his restoration being made in the Monumentum Marii. A passage in Festus (p. 344, Mueller) also speaks of this temple of Honos and Virtus: "Summissiorem aliis aedem Honoris et Virtutis C. Marius fecit ne, si forte officeret auspiciis publicis, augures eam demoliri cogerent." There are also two passages of Vitruvius (iii. 2, 5; Praef. l. vii. 17) which speak of this temple of Honos et Virtus (Becker, Handbuch, &c. i. 405).

The evidence is in favour of the name being Honos et Virtus or Virtus et Honos; and Cicero's play on the two words is in favour of this reading, as Garatoni remarks.

It was the fashion, says Abrami, for the Senate to assemble in some place nearest to the theatre, where the representations were going on, in proof of which he refers to Appian, B. C. ii. 115. On this occasion the temple of Virtus and Honos received the Senate: "illo SCto, quod in monumento Marii factum est, quo mea salus omnibus est gentibus commendata" (Pro Plancio, c. 32). The building erected by C. Marius was the place in which Cicero his fellow-townsman (municeps) found a place of safety.

55. *utroque in genere*] 'In both ways;' in their demonstration of affection to the Senate, and of hatred to Clodius.

rei ipsi] This is an emendation of Garatoni and Dobree, a very obvious emendation of the corrupt reading 'ore ipsi.'—'consul:' P. Lentulus. The aediles curules had the superintendence of the 'ludi solemnes,' except the Apollinares, which were directed by the Praetor Urbanus, and accordingly the 'ludi' here spoken of are supposed to be 'dedicatorii' or 'funebres' (Halm).

stantes et] G., 'stantes ei' P. Halm (1) has 'stantes et,' with the remark that Wesenberg has done right in preferring this to the other reading. But in (2) he has changed his mind, and he has 'stantes ei.'

ejus impuro atque infando represserunt. Voces quidem et palmarum intentus et maledictorum clamorem omnes profuderunt. Sed quid ego populi Romani animum virtutemque commemoro, libertatem jam ex diuturna servitute dispicientis, in eo homine, cui tum petenti jam aedilitatem ne histriones quidem coram sedenti pepercerunt? Nam quum ageretur togata, Simulans, ut opinor, caterva tota clarissima concentione in ore impuri hominis imminens contionata est: "Huic vitae tuae"—et, "Post principia atque exitus vitiosae vitae!" Sedebat exanimatus: et is qui antea cantorum convicio contiones celebrare suas solebat, cantorum ipsorum vocibus ejiciebatur.

Et quoniam facta mentio est ludorum, ne illud quidem praetermittam, in magna varietate sententiarum numquam ullum fuisse locum, in quo aliquid a poeta dictum cadere in tempus nostrum videretur, quod aut populum universum fugeret aut non exprimeret ipse actor. Et, quaeso, hoc in loco, judices, ne qua levitate me ductum ad insolitum genus dicendi labi putetis, si de poetis, de histrionibus, de ludis in judicio loquar. LVI. Non sum tam ignarus, judices, caussarum, non tam insolens in dicendo, ut omni

atque infando] "*Corpus infandum* dicitur tam flagitiosum et infame ut oratio verbum non habeat quod ejus turpitudinem satis exprimat" (Halm). So it seems like Homer's ἀθέσφατος.

Voces] 'Voces' are 'threats,' 'words of discontent,' 'clamor:' "simul permotus eorum vocibus' (Caesar, B. G. vi. 36; Pro Cluentio, c. 10; In Cat. i. 8). There are other meanings of 'voces' which the context will explain:

"Sunt verba et voces quibus hunc lenire dolorem
Possis et magnam morbi deponere partem."
(Hor. Ep. i. 1. 34.)

tum petenti jam] 'Tum petenti,' at that time, is made more emphatic by adding 'jam.'

togata,] A Roman play, one of Afranius', as the Scholiast says.—'ut opinor:' see c. 21. The 'caterva tota' appears to be the whole company of actors, who joined together to say what they did say, whether it was right for them all to say it or not; and they looked Clodius full in the face, 'in ore . . . imminens;' which was enough to put the impudent rascal out of countenance, and worse than the apparition of the Republic which the Declamator's fervid imagination calls up (De Domo, c. 55, and note).

The words which are quoted from the play stand thus in Halm (2):

"huic, Tite,
tua post principia atque exitus vitiosae vitae."

"*huic, Tite, tua* nos: *huic tite tua* P. G. (sed G. *etua*)" (Halm).

cantorum convicio] Clodius had his 'cantores,' his hirelings, in the popular assemblies ready to obey his signal. Abrami quotes a passage from Plutarch (Pomp. c. 48) which explains this: "At last when Pompeius came forward on the occasion of a certain trial, Clodius having with him a body of men filled with insolence and arrogance took his station in a conspicuous place, and put to them the following questions: 'Who is Imperator unlimited? What man seeks another man? Who scratches his head with one finger?' The people like a chorus trained to chant corresponding parts, while Clodius was shaking his toga, at every question with loud shouts replied 'Pompeius.'"

magna varietate sententiarum] "quas fabulae continebant" (Halm), who apologizes for his explanation, because Osiander translated it 'when there is so great a variety of opinions.' This Osiander is a rare man, not to be found every day.

56. *insolens in dicendo,*] 'Insolens'

ex genere orationem aucuper et omnes undique flosculos carpam atque delibem. Scio quid gravitas vestra, quid haec advocatio, quid ille conventus, quid dignitas P. Sestii, quid periculi magnitudo, quid aetas, quid honos meus postulet. Sed mihi sumpsi hoc loco doctrinam quandam juventuti qui essent optimates. In ea explicanda demonstrandum est non esse populares omnes eos qui putentur. Id facillime consequar, si universi populi judicium verum et incorruptum et si intimos sensus civitatis expressero. Quid fuit illud quod, recenti nuntio de illo senatus consulto quod factum est in templo Virtutis ad ludos scenamque perlato, consessu maximo, summus artifex et mehercule semper partium in re publica tam quam in scena optimarum, flens et recenti laetitia et mixto dolore ac desiderio mei, egit apud populum Romanum multo gravioribus verbis meam caussam quam egomet de me agere potuissem? Summi enim poetae ingenium non solum arte sua, sed etiam dolore exprimebat. † Qua enim:

"qui rem publicam certo animo adjuverit,
Statuerit, steterit cum Achivis"—

vobiscum me stetisse dicebat, vestros ordines demonstrabat: revocabatur ab universis—

"re dubia
Haut dubitarit vitam offerre nec capiti pepercerit."

means what it ought to mean, 'unused to;' as in Terence, Andria, v. 4. 4, "Quid tu Athenis insolens?" Horace, Carm. i. 5, has "Emirabitur insolens." Halm compares Pro Rosc. Am. c. 31: "propter fori judiciorumque insolentiam."

advocatio,] Pro Roscio Com. c. 5, Vol. II.—'quid aetas:' Cicero was now fifty years old, as Halm reminds us.—'doctrinam . . . juventuti qui essent:' 'a lesson for youth to tell them who are the Optimates.'

Quid fuit illud quod,] 'What must I say of this, that,' or any thing else to the like effect will do. Halm understands it right, 'quam praeclarum fuit illud,' &c. The two German translators whom he cites are both wrong; Osiander is one of them.

Virtutis] "'Virtutis' habet A. cujus quoque testimonio refutatur conjectura Garatoni, qui in Cur. sec. ad Planc. c. 32 proposuerat: *in templo Honoris-Virtutis*" (Halm).

summus artifex] Aesopus, the actor, one of the few actors whose names have survived:

"—— ea quum reprehendere coner
Quae gravis Aesopus, quae doctus Roscius egit." (Hor. Ep. ii. 1. 81.)

He had a son who spent in extravagance what his father earned by hard labour. So the world is always the same:

"Filius Aesopi detractam ex aure Metellae,
Scilicet ut decies solidum exsorberet, aceto
Diluit." (Hor. Sat. ii. 3. v. 239.)

The Scholiast says, "Aesopus egisse videtur Accii fabulam, quae inscribitur Eurysaces, ita ut per omnem actionis cursum tempora rei publicae significarentur et quidem Ciceronis fortuna deploraretur."

apud populum] 'egit apud P. R.' G., Halm (2). In (1) Halm has 'ad populum.' Wesenberg shows that 'caussam ad aliquem agere' is Latin. It occurs in Ad Div. v. 10, and elsewhere.

Qua enim] *Vi* is added by Koechly and Maehly, and accepted by Halm (2).

haut dubitarit] 'Haut' is Madvig's

Haec quantis ab illo clamoribus agebantur, quum jam omisso gestu verbis poetae et studio actoris et exspectationi nostrae plauderetur: "Summum amicum, summo in bello"—nam illud ipse actor adjungebat amico animo et fortasse homines propter aliquod desiderium approbabant: "summo ingenio praeditum."

LVII. Jam illa quanto cum gemitu populi Romani ab eodem paullo post in eadem fabula sunt acta! "O pater!"—Me, me ille absentem ut patrem deplorandum putarat, quem Q. Catulus, quem multi alii saepe in senatu patrem patriae nominarant—Quanto cum fletu de illis nostris incendiis ac ruinis, quum patrem pulsum, patriam afflictam deploraret, domum incensam eversamque: sic egit, ut demonstrata pristina fortuna, quum se convertisset, "Haec omnia vidi inflammari"—fletum etiam inimicis atque invidis excitaret! Pro di immortales! quid illa, quemadmodum dixit idem! quae mihi quidem ita et acta et scripta videntur esse ut vel a Q. Catulo, si revixisset, praeclare posse dici viderentur; is enim libere reprehendere et accusare populi nonnumquam temeritatem solebat aut errorem senatus:

"O ingratifici Argivi, immunes Grai, immemores benefici!"

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emendation in place of the MSS. 'ut.' Halm (2) writes the lines thus:

"re dubia
Haut dubitarit vitam offerre nec capiti pepercerit,"

which is perhaps a faulty division of the lines, for 'dubitarit vitam offerre nec capiti pepercerit' is a trochaic tetrameter catalectic. In the preceding line there is perhaps some corruption, unless we make it end 're dubia haut,' and I do not know if that would be right.

omisso gestu] The 'gestus' or action was what the Romans most admired in acting; but on this occasion so great was their favour towards Cicero that they thought only of the poet's words, which were applicable to Cicero's condition.—'adjungebat:' the 'actor' added himself, as Manutinus informs us; which, says Halm, is shown by the word 'ipse.'

57. *O pater!*] In this exclamation of Andromache, 'pater' signifies Ection, her father, whose city, Thebe, had been overthrown by the Achivi and himself slain, rather than Priam (Orelli). It is immaterial who says it. The word 'pater,' says Cicero, recalled to the memory of the people the man who had been saluted with the title of 'pater patriae.'

"Roma patrem patriae Ciceronem libera dixit:" (Juvenal viii. 244.)

of whom Pliny (vii. 31) says, "Salve primus omnium parens patriae appellate, primus in toga triumphum linguaeque lauream merite."—'eversam, quae sic,' Bake, Halm (2).

Haec omnia vidi inflammari] The passage is in the Tusculan. Disput. iii. 19, a specimen of old Latin anapaestics:

"O pater, O Priami domus,
Saeptum altisono cardine templum,
Vidi ego te, adstante ope barbarica,
Tectis caelatis, laqueatis
Auro, ebore instructam regifice.
Haec omnia vidi inflammari,
Priamo vi vitam evitari,
Jovis aram sanguine turpari."

quid illa, quemadmodum dixit idem!] So Halm prints it in (1); and I follow him. In (2) he prints it thus: 'quid? illa quemadmodum dixit idem.' An example that second thoughts are not always the best; and I think there are other instances in which his first edition of the text is better than the last.

O ingratifici Argivi,] Cicero does not say this verse is from the same play; but it is from some tragedy. 'Immunes,' says the Scholiast, means 'ingratos.' Orelli

Non erat illud quidem verum; non enim ingrati, sed miseri, quibus reddere salutem a quo acceperant non liceret; nec unus in quemquam umquam gratior quam in me universi:—sed tamen illud scripsit disertissimus poeta pro me, egit fortissimus actor non solum optimus de me, quum omnes ordines demonstraret, senatum, equites Romanos, universum populum Romanum accusaret:

"Exsulare sinitis, sistis pelli, pulsum patimini."

Quae tum significatio fuerit omnium, quae declaratio voluntatis ab universo populo Romano in caussa hominis non popularis, equidem audiebam; existimare facilius possunt qui adfuerunt.

LVIII. Et, quoniam huc me provexit oratio, histrio casum meum toties collacrimavit, quum ita dolenter ageret caussam meam ut vox ejus illa praeclara lacrimis impediretur; neque poetae, quorum ego semper ingenia dilexi, tempori meo defuerunt; eaque populus Romanus non solum plausu, sed etiam gemitu suo comprobavit. Utrum igitur haec Aesopum potius pro me aut Attium dicere oportuit, si populus Romanus liber esset, an principes civitatis? Nominatim sum appellatus in Bruto:

cites Plautus (Trinum. i. 1, 2): "immune facinus," that is 'ingratum;' and Cicero (De Am. c. 14): "non est enim inhumana virtus neque immunis," where some MSS. have the corrupt reading 'immanis,' as in this passage all the MSS. have the corrupt reading 'inanes,' except A. (Orelli). In the passage of the De Amicitia, 'immunis' means, I think, 'does not refuse to discharge its duties.'

illud scripsit . . . pro me,] 'Illud' the next line, which he is going to quote. After quoting the first verse, which would seem to reproach the people with ingratitude, he corrects himself; and he says that they were not ungrateful, but unfortunate. The next verse however, 'Exsulare,' &c., was so applicable that the poet wrote it for him (pro me). This is Wesenberg's explanation, who adds something else also to refute Madvig's proposal to write 'pro re' for 'pro me;' a proposal which one would hardly expect from such a critic, when the opposition of 'scripsit . . . pro me,' 'egit . . . de me' is so obvious.

non popularis,] Manutius supposed Cicero to say that though he was 'nomine non popularis,' he had experienced the good will of the 'populus.' Halm explains it right: Cicero is speaking ironically, for he is thus more completely refuting the opinion of his enemies about their own popularity.

equidem audiebam;] The MSS. have 'audiebamus;' but the third edition of Ascensius and the edition of Hervagius have 'audiebam.' 'Equidem' is 'ego quidem,' or at least it is used in the sense of 'ego quidem' by Cicero, who only uses it with the first person; and it would be a strange use of the word to connect it with a verb in the first person plural. In this oration we have an instance of the use of the word (c. 33): "vos haec melius scire potestis: equidem audita dico." Madvig in his remarks on this passage had said that Cicero in his orations does not speak of himself in the plural number; a remark which many passages show to be untrue; for instance, c. 22 of this chapter: "C. Marium . . . ex iisdem quibus nos radicibus natum" (Halm).

58. *Et, quoniam*] Halm has a remark on 'et,' that it not only serves to maintain the continuity of the discourse, but also to annex the particle 'neque:' 'et histrio collacrimavit, neque poetae defuerunt.'

in Bruto:] A play of Attius in which the name of Tullius occurred, who must be Servius Tullius the founder of Roman liberty. It is an absurd notion of a critic cited by Halm and of Drumann (ii. p. 294), that Aesopus the actor changed the name in the play in such way as to signify M. Tullius.

"Tullius, qui libertatem civibus stabiliverat."
Milies revocatum est. Parumne videbatur populus Romanus judicare id a me et a senatu esse constitutum, quod perditi cives sublatum per nos criminabantur? Maximum vero populi Romani judicium universi consessu gladiatorio declaratum est. Erat enim munus Scipionis, dignum et eo ipso et illo Q. Metello cui dabatur. Id autem spectaculi genus erat, quod omni frequentia atque omni genere hominum celebratur, quo multitudo maxime delectatur. In hunc consessum P. Sestius tribunus plebis, quum ageret nihil aliud in eo magistratu nisi meam caussam, venit et se populo dedit, non plausus cupiditate, sed ut ipsi inimici nostri voluntatem universi populi viderent. Venit, ut scitis, a columna Maenia. Tantus est ex omnibus spectaculis usque a Capitolio, tantus ex fori cancellis plausus excitatus, ut numquam major consensio aut apertior populi Romani universi fuisse ulla in caussa diceretur. Ubi erant tum illi contionum moderatores, legum domini, civium expulsores? aliusne est aliquis improbis civibus peculiaris populus, cui nos offensi invisique fuerimus?

LIX. Equidem existimo nullum tempus esse frequentioris populi quam illud gladiatorium, neque contionis ullius neque vero ullorum comitiorum. Haec igitur innumerabilis hominum multitudo, haec populi Romani tanta significatio sine ulla varietate universi, quum illis ipsis diebus de me actum iri putaretur, quid declaravit nisi optimorum civium salutem et dignitatem populo Romano caram esse universo? At vero ille, qui de me non patris, avi, proavi,

universi] This is Schütz's correction of the MSS. reading 'universo.' The same order of words occurs in this chapter, "universi populi;" and c. 59, "populo Romano . . . universo."

Scipionis,] This was the Scipio who was afterwards the father-in-law of Cn. Pompeius, and who died by his own hand at the close of the civil war. He was adopted into the family of the Metelli, and so became Q. Metellus Scipio. He gave a show of gladiators in honour of Q. Metellus Pius, the son of Numidicus. Pius had died several years before the games (Dion 37. c. 37).

se populo dedit,] See c. 54, note.

a columna Maenia.] P. G[1].; 'ad columnam Maeniam' S. "Haec in vicinia fori et juxta comitium posita sic nominabatur" (Scho.l). Halm had 'ad columnam Maeniam' in (1), and he added that Wesenberg rightly defends it, saying that Sestius did not come to see the gladiators *a col.* M., but *ad col.* M., to see the games from it. But in (2) Halm has the reading in the text.

spectaculis] Places from which the Ludi were seen. Compare Pro Murena, c. 34, and the note: "At spectacula sunt tributim data" (Matth.).—'ex fori cancellis:' the wooden inclosure or railing set up to mark out the place for the Ludi. See Verr. ii. 3. c. 59, and the note on 'cancelli.'

59. *de me actum iri*] Mistranslated by Osiander, but it is not worth while to say how, for nobody else can make the same mistake, nor mistake the meaning at all.

ille,] Halm (2) has 'praetor' after 'ille.' The common reading was, 'At vero ille tribunus pl.,' which would mean Publius Clodius. But Garatoni maintained that Appius the praetor is meant by 'ille,' and the Scholiast says that Appius is meant. Drumann (v. p. 678, n. 85) does not admit that the Scholiast is right. Garatoni observes that Clodius presented himself only once at the

majorum denique suorum omnium, sed Graeculorum instituto contionem interrogare solebat, "Velletne me redire," et, quum erat reclamatum semivivis mercenariorum vocibus, populum Romanum negare dicebat; is, quum quotidie gladiatores spectaret, numquam est conspectus quum veniret. Emergebat subito, quum sub tabulas subrepserat, ut "Mater te appello" dicturus videretur. Itaque illa via latebrosior, qua spectatum ille veniebat, Appia jam vocabatur. Qui tamen quoquo tempore conspectus erat, non modo gladiatores, sed equi ipsi gladiatorum repentinis sibilis extimescebant. Videtisne igitur quantum inter populum Romanum et contionem intersit; dominos contionum omni odio populi notari; quibus autem consistere in operarum contionibus non liceat, eos omni populi Romani significatione decorari?

Tu mihi etiam M. Atilium Regulum commemoras, qui redire ipse Karthaginem sua voluntate ad supplicium quam sine iis captivis, a quibus ad senatum missus erat, Romae manere maluerit, et mihi negas optandum reditum fuisse per familias comparatas et homines armatos? LX. Vim scilicet ego desideravi, qui, dum vis fuit, nihil egi, et quem, si vis non fuisset, nulla res labefactare

Ludi, c. 54; but Cicero says of this man whoever he was, "is quum quotidie gladiatores spectaret." But there is no weight in this remark. Who supposes that Clodius never presented himself at Ludi but once in his life; and that this man, though he was a spectator, was not seen at his coming? (numquam est conspectus quum veniret.) Garatoni has some other reasons, not very weighty, I think, though Halm has a different opinion.

Emergebat subito,] The man had got under the planks, the place from which the ghosts come up, and he emerged from this hole as if he were the ghost in the play of Ilione, which cries out 'Mater te appello.' "They are the words of Deiphilus, who had been killed by his father Polymestor, and returning from the regions below addresses his mother Ilione in the play of Pacuvius, Heindorf, Hor. Serm. ii. 3. v. 60" (Matthiae). The Scholiast on Cicero and Porphyrion on Horace speak of the shade of Polydorus and not of Deiphilus. The play was probably a favourite at Rome (see Macleane's Hor. note on Sat. ii. 3. v. 60).

latebrosior,] A., 'latebrosa' P. G. This, says Matthiae, is an 'egregia dilogia,' the comparison between the stealthy way in which Appius Claudius got to see the exhibition and the Appia via constructed by his ancestor Claudius Caecus. The joke is Cicero's own I think, as Halm suggests. Opinions may differ about its egregiousness.

equi ipsi] Of the 'essedarii' and 'andabatae' (Abrami). The hisses frightened the very horses. Halm cannot refrain from copying Osiander's version of this passage, 'oblectationis causa.' However I can. We have had enough of this kind of oblectation.

Tu mihi] The usual juxtaposition in Cicero when two persons are put face to face. The story about Regulus is told here in the same way as in Horace, Carm. iii. 5; the other story is that he was sent to Rome about the ransom of the Carthaginian captives. The prosecutor is said to have contrasted Regulus with Cicero, Regulus who would not stay in Rome, while his fellow-captives were in the hands of the enemy, and Cicero who rather than stay in exile, effected his return by violence and the aid of armed men.

60. *nihil egi,*] For I left my country to avoid using force against force (Manutius). —'senatus publice . . . gratias egit:' see Pro Planc. c. 32 (Halm). —'qui provincias cum imperio:' proconsuls and propraetors, as Manutius observes, for 'quaestores' and 'legati' had not that which the Romans called 'imperium.'

potuisset. Hunc ego reditum repudiarem, qui ita florens fuit, ut verear, ne qui me studio gloriae putet idcirco exisse ut ita redirem? Quem enim umquam senatus civem nisi me nationibus exteris commendavit? cujus umquam propter salutem nisi meam senatus publice sociis populi Romani gratias egit? De me uno patres conscripti decreverunt, ut, qui provincias cum imperio obtinerent, qui quaestores legatique essent, salutem et vitam custodirent. In una mea caussa post Romam conditam factum est, ut litteris consularibus ex senatus consulto cuncta ex Italia omnes qui rem publicam salvam vellent convocarentur. Quod numquam senatus in universae rei publicae periculo decrevit, id in unius mea salute conservanda decernendum putavit. Quem curia magis requisivit? quem forum luxit? quem aeque ipsa tribunalia desideraverunt? Omnia discessu meo deserta, horrida, muta, plena luctus et maeroris fuerunt. Quis est Italiae locus in quo non fixum sit in publicis monumentis studium salutis meae, testimonium dignitatis?

LXI. Nam quid ego illa de me divina senatus consulta commemorem? vel quod in templo Jovis Optimi Maximi factum est, quum vir, is qui tripertitas orbis terrarum oras atque regiones tribus triumphis adjunctas huic imperio notavit, de scripto sen-

litteris consularibus] The letter of P. Lentulus only, c. 22. Halm says that Walter (Hist. Jur. Rom. p. 135, ed. ii.) observes that this letter was sent at that time, because in the harvest season it was not usual for the country folks to attend the comitia, especially those from the remoter parts of Italy. How the country folks could come to Rome from remote parts of Italy at any season to attend the comitia is a thing that passes my understanding. They would be weeks on their journey and return, and would spend the profits of a whole year. The consul's letter might invite all Italy, but all Italy would not and could not come. This is said 'oratorie,' falsely. In the next chapter he speaks soberly "eorum qui ex municipiis convenerant admonitu." Many of the richer people from the towns might come, and that would be all.

cuncta ex Italia] Comp. Quum Senatui, c. 9.

fixum sit] "scil. decretum aliquod decurionum" (Orelli). Some inscription, perhaps a bronze tablet, fixed up in a public place.

61. *in templo Jovis*] In the Capitolium, the chief of all the Roman 'templa,' where the weightiest matters were discussed; Appian, Libyc. c. 75: "The Senate met in the Capitolium, where they are accustomed to deliberate about war" (Abrami).

qui tripertitas, &c.] Two of Cn. Pompeius' triumphs are spoken of in the De Imp. Cn. Pompeii, c. 26, and the notes, Vol. II. His first triumph was for his African victories, his second for his victories in Spain, and his third for his victory over Mithridates in Asia (Plutarch, Pomp. cc. 14, 22, 45). The triumph over Mithridates is described by Plutarch (c. 45), who says: "But it was the chief thing towards his glory, and what had never happened before to any Roman, that he celebrated his third triumph over the third continent. For though others before him had triumphed three times, Pompeius by having gained his first triumph over Libya, his second over Europe, and this the last over Asia, seemed in a manner to have brought the whole world into his three triumphs." We may translate: "The man who marked three separate extremes and divisions of the world as added to our empire by his three triumphs."

de scripto] He delivered a written speech, which was a mark of care and earnestness, on the occasion.—'unus dissentiret hostis:'

tentia dicta mihi uni testimonium patriae conservatae dedit; cujus sententiam ita frequentissimus senatus secutus est ut unus dissentiret hostis, idque ipsum tabulis publicis mandaretur ad memoriam posteri temporis sempiternam: vel quod est postridie decretum in curia populi ipsius Romani et eorum qui ex municipiis convenerant admonitu, ne quis de caelo servaret, ne quis moram ullam afferret; si quis aliter fecisset, eum plane eversorem rei publicae fore idque senatum gravissime laturum, et ut statim de ejus facto referretur. Qua gravitate sua quum frequens senatus nonnullorum scelus audaciamque tardasset, tamen illud addidit, ut, si diebus quinque quibus agi de me potuisset non esset actum, redirem in patriam dignitate omni recuperata.

LXII. Decrevit eodem tempore senatus, ut iis qui ex tota Italia salutis meae caussa convenerant agerentur gratiae, atque ut eidem ad res redeuntes ut venirent rogarentur. Haec erat studiorum in mea salute contentio, ut ii qui a senatu de me rogabantur eidem senatui pro me supplicarent. Atque ita in his rebus unus est solus inventus qui ab hac tam impensa voluntate bonorum palam dissideret, ut etiam Q. Metellus consul, qui mihi vel maxime ex magnis contentionibus rei publicae fuisset inimicus, de mea salute ret-

"one expressed his dissent and he was my enemy," a man who had attacked him, as a foreign enemy would do, with arms, P. Clodius. Compare Quum Senatui, c. 10: "Quo quidem die," &c. The 'tabulae publicae,' says Graevius, are the 'tabulae' in which the 'acta diurna senatus referebantur.'

ne quis de caelo servaret,] "That no person should attempt to stop the proceedings in Cicero's favour by an 'obnuntiatio.'" But a Lex of Clodius in the preceding year had enacted 'ne quis de caelo servaret,' and so had put an end to the 'obnuntiatio' (c. 15). Ferratius has a long note here. It appears from this passage and others that though Clodius' Lex was passed, the Senate did not think that the 'obnuntiatio' was taken away. If Clodius' law was general and not for a limited time or purpose, it was valid in this affair of Cicero, and there could be no danger of an 'obnuntiatio;' and yet the Senate might still fear that an 'obnuntiatio' might be made. Ferratius concludes that Clodius' Lex was this, "ne sibi tribuno pl. legem quamlibet ferenti vel tribuni collegae intercedere vel alii magistratus obnuntiare possent; quod oratorie Cicero saepe conqueritur, quippe ipsi et universae civitati perniciosum fuerat." He thinks that the passage in Dion 38. c. 14, supports this exposition.

referretur.] The matter would be referred to the Senate for their deliberation. Mention is made in a letter to Atticus (iv. 2) of a 'relatio' on the subject of the 'intercessio' of the tr. pl. Serranus. Compare Quum Senatui, c. 11 (Manutius), and the note on that passage.

addidit, ut, si] The common reading is 'addidit, si.' "'*Ut si*' G., ut Wesenbergius p. 5 emendavit" (Halm).—'diebus quinque:' "comitialibus, quibus agi cum populo licebat. Non enim dicit: quinque continentibus diebus, sed *quinque quibus agi potuisset*" (Manutius).

62. *ad res redeuntes*] When the business of the forum and the comitia was resumed after a holiday or vacation. Compare Quum Senatui, c. 11, and the note.

studiorum . . . contentio,] The Senate and the people vied with one another in promoting Cicero's return: the people were intreated by the Senate to come to Rome 'ad res redeuntes,' and the people intreated the Senate on behalf of Cicero.

rettulerit.] He made the motion for the SCtum which was passed in the Templum Jovis: Quum Senatui, c. 10, and the note.

tulerit. Qui excitatus quum summa auctoritate P. Servilii, tum incredibili quadam gravitate dicendi, quum ille omnes prope ab inferis evocasset Metellos, et ad illius generis quod sibi cum eo commune esset dignitatem propinqui sui mentem a Clodianis latrociniis reflexisset, quumque eum ad domestici exempli memoriam et ad Numidici illius Metelli casum vel gloriosum vel gravem convertisset, collacrimavit vir egregius ac vere Metellus totumque se P. Servilio dicenti etiam tum tradidit, nec illam divinam gravitatem plenam antiquitatis diutius homo ejusdem sanguinis potuit sustinere et mecum absens beneficio suo rediit in gratiam. Quod certe, si est aliqui sensus in morte praeclarorum virorum, quum omnibus Metellis, tum vero uni viro fortissimo et praestantissimo civi gratissimum fratri suo fecit, socio laborum, periculorum, consiliorum meorum.

LXIII. Reditus vero meus qui fuerit quis ignorat? quemadmodum mihi advenienti tamquam totius Italiae atque ipsius patriae dextram porrexerint Brundisini, quum ipsis Nonis Sextilibus idem dies adventus mei fuisset reditusque, natalis idem carissimae filiae, quam

quum summa auctoritate . . . tum incredibili] The emendation of Manutius, which Halm (2) has accepted, though in (1) he preferred something else.

P. Servilii,] Quum Senatui, c. 10, note.

ab inferis] Compare the passage in the Quum Senatui, c. 10, and the note: compare the original and the parody.

collacrimavit] "Apte," says Halm, "contulit Abrami proverbium Graecum: *ἀγαθοὶ δ' ἀριδάκρυες ἄνδρες.*" So in c. 55 we have "lacrimantes gaudio," and in c. 56, "flens et recenti laetitia et mixto dolore," where the same diligent Abrami compares Aeschylus, Agam. v. 261: *χαρά μ' ὑφέρπει δάκρυον ἐκκαλουμένη.* But Halm quotes something from Drumann (v. p. 679) which is more apt: "The tears of Metellus were soon dried; and it was not the speech of Servilius, but regard to Pompeius, who now was in favour of Cicero's return, which determined him to suppress his hatred for the moment."

plenam antiquitatis] 'Full of old Roman honesty;' compare c. 3: "duobus his gravissimae antiquitatis viris" (Halm); who explained it, I suppose, because Manutius erroneously thought that it was an allusion to the old age of Servilius; which is a singular mistake. But all men make mistakes, except the infallible few.

beneficio suo] See De Prov. Cons. c. 9. The 'beneficium' was his joining his colleague Lentulus in making the motion to the Senate about Cicero's recall (Manutius). Halm observes that Manutius proposed to add 'suo,' and we have now the evidence of A. for putting it in the text.

in morte] 'In the state of death.' Abrami compares an expression of Sulpicius in a letter to Cicero (Ad Fam. iv. 5): "Si quis etiam inferis sensus est;" and other like expressions of hope or doubt about the dead being conscious of what happens among the living. Such collecting of passages may seem a trivial labour; and it is in one way. In another way there is something in it. The human race is one in its organization and its appetites; one also in its desires, its hopes, and its fears. It does not change, and is neither better nor worse in its natural capacities than it was in the remotest period to which we can trace its habits and opinions.

fratri suo . . . socio] Q. Metellus Celer, now dead (Quum Senatui, c. 10, and the note). The Schol. says of Celer: "qui proximo triennio decesserat, infami etiam morte de veneficio, quod ei paratum vel apud Clodium fratrem vel apud uxorem Clodiam videbatur."

63. *Reditus . . . meus*] In two other places Cicero describes his return: Ad Att. iv. 1; In Pison. c. 22 (Halm).

reditusque, natalis idem] The reading of some of the MSS. is 'reditus qui natalis

ex gravissimo tum primum desiderio luctuque conspexi, idem etiam ipsius coloniae Brundisinae, idem, ut scitis, Salutis: quumque me domus eadem optimorum et doctissimorum virorum M. Laenii Flacci et patris et fratris ejus laetissima accepisset, quae proximo anno maerens receperat et suo praesidio periculoque defenderat. Itinere toto urbes Italiae festos dies agere adventus mei videbantur, viae multitudine legatorum undique missorum celebrabantur, ad urbem accessus incredibili hominum multitudine et gratulatione florebat, iter a porta, in Capitolium adscensus, domum reditus erat ejusmodi, ut summa in laetitia illud dolerem, civitatem tam gratam tam miseram atque oppressam fuisse. Habes igitur, quod ex me quaesisti, qui essent optimates. Non est natio, ut dixisti, quod ego verbum agnovi; est enim illius, a quo uno maxime P. Sestius se oppugnari videt, hominis ejus qui hanc nationem deleri et concidi cupivit; qui C. Caesarem, mitem hominem et a caede abhor-

idem;' and Halm (2) has written 'reditusque, qui natalis idem.' I have followed his first edition; in which the text is as it stands here, according to the emendation of Gruter and others.

Cicero's daughter Tullia met him at Brundisium, but his wife did not (Manutius, quoted by Halm). Manutius refers to Plutarch (Cicero, c. 41), but in that passage Plutarch is speaking of Cicero's return to Brundisium in B.C. 48. In B. C. 49 he had crossed the gulf to Pompeius in Epirus, and he returned to Italy through Brundisium after the battle of Pharsalia.

coloniae Brundisinae,] The date of this 'colonia' is Non. Sextil. B.C. 244. Cicero calls it 'colonia,' says Halm, and not a 'municipium,' because he is speaking of the Dies Natalis. If he had not spoken of the settlement of the 'colonia,' I suppose he would have called it neither 'municipium' nor 'colonia.' Brundisium was a Latina Colonia.

Salutis:] The MSS. have 'idem ut scitis,' which Manutius altered to 'idem et Salutis,' by the aid of the passage in a letter to Atticus (iv. 1): "Brundisium veni Nonis Sextil. Ibi mihi Tulliola mea fuit praesto natali suo ipso die, qui casu idem natalis erat et Brundisinae coloniae et tuae vicinae Salutis." The temple of Salus was on the Quirinalis Collis. Nepos in his life of Atticus speaks of Atticus' house on the Quirinal.

M. Laenii Flacci] Compare the oration Pro Plancio, c. 41, and Ad Div. xiv. 4. The Flacci received him notwithstanding the penalties which the Lex of Clodius contained against those who received Cicero.

defenderat. Itinere] Madvig's conjecture, adopted by Halm (1). But in (2) he follows the Codd., which have 'defenderat quumque itinere.' If Madvig's conjecture is not accepted, we must take the MSS. reading, and explain it as well as we can. But I cannot do it.

domum] Not the Palatina, which Clodius had destroyed, but, as Manutius conjectures, the house which he had 'in Ceramio,' Ad Att. iv. 2 (Manutius, quoted by Halm). Manutius, as usual, refers to the Book only. There is something about this Ceramium, or whatever the name should be, in the notes in the Variorum edition of Cicero's Letters to Atticus (iv. 3). Manutius must have read this passage thus: "Milonis domum meamque in Ceramio." It is read in Orelli's edition: "Milonis domum, eam quae est in Germalo." But the remark of Manutius is entirely useless, I think; for 'domum reditus' is simply his return home. Of course he lodged somewhere when he came back, and if he had not another house, he might hire one or borrow the use of one from some of his friends who were so glad to see him; his friend Metellus perhaps, who shed so many tears (c. 62).

est enim illius,] "Hic erat P. Vatinius, qui testimonio Sestium persequebatur" (Schol.). It is the expression of Vatinius, from whom Albinovanus learned the word. As to 'natio,' see Pro Murena, c. 33.

rentem, saepe increpuit, saepe accusavit, quum affirmaret illum numquam, dum haec natio viveret, sine cura futurum. Nihil profecit de universis: de me agere non destitit; me oppugnavit, primum per indicem Vettium, quem in contione de me et de clarissimis viris interrogavit. In quo tamen eos cives conjunxit eodem periculo et crimine, ut a me inierit gratiam, quod me cum amplissimis et fortissimis viris congregavit.

LXIV. Sed postea mihi nullo meo merito, nisi quod bonis placere cupiebam, omnes est insidias sceleratissime machinatus. Ille ad eos a quibus audiebatur quotidie aliquid de me ficti afferebat; ille hominem mihi amicissimum, Cn. Pompeium, monebat ut meam domum metueret atque a me ipso caveret; ille se sic cum inimico meo copularat, ut illum meae proscriptionis, quam adjuvabat, Sex. Clodius homo iis dignissimus quibuscum vivit tabulam, sese scriptorem esse diceret; ille unus ordinis nostri discessu meo, luctu vestro, palam exsultavit. De quo ego, quum quotidie rueret, verbum feci, judices, numquam; neque putavi, quum omnibus machinis ac tormentis, vi, exercitu, copiis oppugnarer, de uno sagittario me queri convenire. Acta mea sibi ait displicere. Quis nescit? qui legem meam contemnat, quae dilucide vetat gladiatores biennio quo quis petierit aut petiturus sit dare? In quo ejus teme-

indicem Vettium,] The Scholiast tells us that L. Vettius laid an information before the Senate, in which he said that he had been engaged by certain great men and consulars to assassinate C. Caesar and Cn. Pompeius as they were entering the forum. Vettius mentioned in his information many senators as the guilty parties, and among them M. Tullius and L. Piso, and the two Curiones, and many others. Vettius was thrown into prison, where he died, as the Scholiast says, "ex eorum videl. mandatu, quantum rumor ferebat, occisus, qui eum ad calumniosum illud indicium subornaverant." Halm refers to In Vatin. c. 10, 11; Ad Att ii. 24; Sueton. Julius, c. 17, 20; where there is more about this matter, and also in Plutarch, Lucullus, c. 42; Appian, B. C. ii. 12; Dion, 38. c. 39. Vettius was one of the informers in the matter of the Catilinarian conspiracy. This affair of Vettius to which Cicero here alludes was in B.C. 59, the year of Caesar's consulship. We know not whether he told the truth, nor how he died; but the evidence is that he came to a violent death in prison.

64. *aliquid de me ficti*] The MSS. have 'aliquid defecti' or 'aliquod defecti.' The emendation is by Manutius.

Sex. Clodius . . . tabulam,] Sex. Clodius is often mentioned in the spurious orations: De Domo, cc. 18. 31. 50; De Harusp. c. 6. There is more about Sex. Clodius in the Pro Caelio, c. 32. Sex. Clodius drew up the Lex; he said that he himself wrote it, and the other, Vatinius, was his writing tablet. Halm (1) has 'tabulam esse, se scriptorem diceret;' but in (2) he has 'tabulam, sese scriptorem esse diceret,' which seems better, and the readings perhaps are in favour of it.

rueret,] Acted like a wild fellow, a turbulent man, a madman.—'de uno sagittario:' he speaks with contempt of Vatinius: he was not even a legionary soldier, he was merely an archer.—'Acta:' the 'acta' of the consuls, says Abrami, are properly the Leges enacted on their proposal (Phil. i. c. 7).

legem meam] The Lex Tullia de Ambitu, in which, says the Scholiast, "praescribebatur inter cetera, ne candidatus ante biennium quam magistratum petiturus esset munus populo ederet, propter ambitum scil. ne hoc ipso popularis animus eblanditus designationi ejus succumberet."

quo quis petierit] Madvig proposes to erase 'petierit aut,' and Wesenberg follows

ritatem satis mirari, judices, non queo. Facit apertissime contra legem: facit is qui neque elabi ex judicio jucunditate sua neque emitti gratia potest neque opibus et potentia leges ac judicia perfringere. Quae res hominem impellit ut sit tam intemperans ista nimia gloriae cupiditate? Familiam gladiatoriam, credo, nactus est speciosam, nobilem, gloriosam: norat studia populi, videbat clamores et concursus futuros. Hac exspectatione elatus homo flagrans cupiditate gloriae tenere se non potuit quin eos gladiatores induceret, quorum esset ipse pulcherrimus. Si ob eam caussam peccaret et pro recenti populi Romani in se beneficio populari

him, with the remark that the Scholiast, who has just been quoted, did not find these words in his copy, and this seems to be so. In the In Vatin. c. 15, we find "quum mea lex dilucide vetet biennio quo quis petat petiturusve sit gladiatores dare, nisi ex testamento praestituta die." The text cannot be right both in the Pro Sestio and in the In Vatin. c. 15; and accordingly Pantagathus proposed to change 'petierit' here into 'petat,' which alteration makes the two passages the same, but by no means removes the difficulty, for in neither passage are the direct words of the Lex quoted. The formula 'fecit, fecerit' in a Roman Lex often occurs, and in such cases 'fecerit' is said to be the future perfect. "Here indeed," says Madvig, "where the Lex limits a time within which something must not be done, the perfect is faulty, unless we can suppose," to use his own expression, "Ciceronem biennio *post* petitionem gladiatores dari sua lege vetuisse. At quid id ad ambitum et vim ex petitione tollendam pertinebat? aut quis putat ea lege magistratus, imo ipsos aediles a gladiatoribus dandis exclusos esse? Falsum est igitur *petierit* et ejicienda *petierit aut*, addita ab aliquo, qui locum similem Vatinianae loco facere voluit." This argument is not satisfactory. If 'petierit' must refer to 'post petitionem,' the provision is just the same as one in the English Treating Act (Pro Murena, c. 34, note). Wesenberg agrees with Madvig. Bake thinks that 'petierit aut' should not be erased, and that we could do without the 'aut petiturus sit,' better than without the 'petierit;' in which Halm agrees with him. Halm thinks that 'petierit' is the subjunctive of the 'futurum exactum,' and we may suppose the formula of the Lex to be after this fashion: "biennio (which is properly, within the two years of the canvass; in fact, the same as 'biennio ante') quo quis petet aut petiturus erit, ne gladiatores dato." Cicero, quoting these words in the indirect form of expression in the oration Pro Vatinio, used 'petat' for 'petet' for this reason: "quoniam legitimae formae *petiturus sit* propter alteram disjunctionis partem singularem locus non erat: in or. autem Sestiana minus accurate ex futuro *petet* conjunctivum futuri exacti *petierit* formavit, eo fortasse inductus, quod ejus temporis usus in legum formulis frequentissimus erat." This is judicious, even if it is not the true explanation. Cicero does not in either passage give the exact words of the Lex. He quotes them indirectly, and whenever the words of a statute are so quoted, it is certain that some discrepancy in tenses will arise. 'Aut petierit,' which has raised all this pother, is, I think, more certainly a genuine expression of Cicero than 'petiturus sit,' or at least as certain. We must translate the text according to its plain meaning; which is this: 'within two years of a man's canvass;' the exact meaning of which words I leave others to explain as they please.

jucunditate sua] 'Because he is liked' for his character and pleasant manners. Halm compares Q. Cicero, De Pet. Cons. c. 5: "Amicorum studia beneficiis et officiis et vetustate et facilitate ac jucunditate naturae parta esse oportet;" and Garatoni compares Ad Fam. ix. 15: "Quod tu ipse tam amandus es tamque dulcis tamque omni in genere jucundus, id est proprium tuum."

ista nimia gloriae cupiditate?] This is the common reading. But P. has 'iste nimia,' and G. 'iste animia.' Madvig says that 'ista' should be 'illa,' and he has other objections. He concludes that the words are a gloss. Halm (2) has 'intemperans?—Est enim nimia gloriae cupiditate.—,' the conjecture of Ieep.

in se beneficio] If he had been elected, that might have been some excuse; but he ought not to have felt any great desire to

studio elatus, tamen ignosceret nemo: quum vero ne de venalibus quidem homines electos, sed ex ergastulis emptos nominibus gladiatoriis ornarit et sortito alios Samnites, alios provocatores fecerit, tanta licentia, tanta legum contemptio, nonne quem habitura sit exitum pertimescit? Sed habet defensiones duas: primum, "Do, inquit, bestiarios: lex est scripta de gladiatoribus." Festive! Accipite aliquid etiam acutius. Dicet se non gladiatores, sed unum gladiatorem dare et totam aedilitatem in munus hoc transtulisse. Praeclara aedilitas! unus leo, ducenti bestiarii. Verum utatur hac defensione: cupio eum suae causae confidere: solet enim tribunos plebis appellare et vi judicium disturbare quum diffidit. Quem non tam admiror, quod meam legem contemnit, hominis inimici, quam quod sic statuit omnino consularem legem nullam putare. Caeciliam Didiam, Liciniam Juniam contempsit. Etiamne

satisfy the people, after finding that the people had not been favourable to him in his canvass for the aedileship (Manutius).

de venalibus] He did not take even the best slaves that the market offered, but he had men from the 'ergastula,' worn out with labour, good for nothing except to be killed; for when a slave was no longer fit for work, he was still able to eat and would cost his master something. It was cheaper therefore to have him killed, and better still to sell him to be killed. On the Ergastula, see Vol. II., Index.

sortito] He chose by lot some to be Samnites and some to be 'provocatores,' the exact meaning of which last word is doubtful. The names Provocatores and Provocantes occur on inscriptions (Klotz); who observes "they were called challengers, because they were bold enough to challenge any one out of the band of gladiators to single combat, and for that purpose also were especially well armed and trained." Lipsius (Op. Saturn. Serm. ii. c. 7, &c.) has a treatise on the Roman gladiators. Halm quotes Livy (ix. 40): "Campani ab superbia et odio Samnitium gladiatores, quod spectaculum interepulas erat, eo ornatu armarunt Samnitiumque nomine compellarunt." Horace has an allusion to the Samnites:

> "Caedimur, et totidem plagis consumimus hostem
> Lento Samnites ad lumina prima duello."
> (Ep. ii. 2. 98, and Macleane's note.)

Cicero (Tuscul. ii. 17), where he is speaking of the gladiator's endurance, quotes the line:

> "Samnis, spurcus homo, vita illa dignu' locoque."

Lipsius (Saturn. ii. c. 11) has all about these Samnites.

bestiarios:] These were gladiators who fought with wild beasts.—'totam aedilitatem:' "that is, all the cost which he would have expended on the Ludi, if he had got the aedileship, he transferred to this exhibition" (Schütz).

unus leo,] He admitted that there was one gladiator, whose name was Leo, and two hundred men opposed to the beasts (Schol.); who adds: "Hoc etiam dictum de Leone Tullius Tiro, libertus ejusdem, inter jocos Ciceronis adnumerat." Cicero's jokes would have filled a volume; and sometimes they were good.

tribunos pl. appellare] "Vatinius quum reus de ambitu fieret, appellavit collegium tribunorum et maxime P. Clodium, quo intercedente effectum est ut accusatio, quae suscepta fuerat, non posset impleri" (Schol.). Halm refers to In Vatin. c. 14.

sic statuit] Madvig, Halm (2); 'si statuit' P[1].; 'se statuit' P[2]. G. Wesenberg compares Pro Cluentio, c. 16: "Itaque tum sic statuit . . . insidias Habito comparare."

Caeciliam Didiam,] "Caecilia est autem et Didia quae jubebat in promulgandis legibus trinundinum tempus observari. Licinia vero et Junia coss. auctoribus Licinio Murena et Junio Silano perlata illud cavebat, ne clam aerario legem ferri (Halm suggests 'inferri') liceret, quoniam leges in aerario condebantur" (Schol.).

ejus quem sua lege et suo beneficio ornatum, munitum, armatum solet gloriari, C. Caesaris legem de pecuniis repetundis non putat esse legem? Et aiunt alios esse qui acta Caesaris rescindant, quum haec optima lex et ab illo socero ejus et ab hoc assecula negligatur? LXV. Et cohortari ausus est accusator in hac caussa vos, judices, ut aliquando essetis severi, aliquando medicinam adhiberetis rei publicae. Non ea est medicina, quum sanae parti corporis scalpellum adhibetur atque integrae; carnificina est ista et crudelitas: ii medentur rei publicae qui exsecant pestem aliquam tamquam strumam civitatis.

Sed ut extremum habeat aliquid oratio mea, et ut ego ante dicendi finem faciam quam vos me tam attente audiendi, concludam illud de optimatibus eorumque principibus ac rei publicae defensoribus; vosque, adolescentes, et qui nobiles estis, ad majorum vestrorum imitationem excitabo, et qui ingenio ac virtute nobilitatem potestis consequi, ad eam rationem, in qua multi homines novi et honore et gloria floruerunt, cohortabor. Haec est una via, mihi credite, et laudis et dignitatis et honoris: a bonis viris sapientibus et bene natura constitutis laudari et diligi; nosse discriptionem civitatis a majoribus nostris sapientissime constitutam; qui

sua lege . . . ornatum,] Vatinius tr. pl. proposed in B.C. 59 the Lex which gave to C. Caesar the Province of Gallia Cisalpina and Illyricum for five years with three legions. The Senate added to his commission Gallia Comata and a fourth legion (Sueton. Jul. c. 22), fearing that if they did not give this to Caesar, the people would.

illo socero] This was L. Calpurnius Piso, whose daughter, Calpurnia, was Caesar's last wife. "Shortly after (the marriage of Cn. Pompeius and Caesar's daughter Julia) Caesar married Calpurnia, the daughter of Piso, and got Piso named consul for the next year (B.C. 58), though Cato in this matter also strongly protested, and exclaimed that it was an intolerable thing for the chief power to be prostituted by marriage bargains, and that they should help one another by means of women to provinces and armies and political power" (Plutarch, Caesar, c. 14). There was a Lex Julia de Repetundis, enacted in Caesar's consulship. Manutius refers to the oration De Prov. Cons. c. 4, and In Pison cc. 12, 16.

65. *tamquam strumam*] An allusion to Vatinius' personal deformity, as in the In Vatin. c. 16; in Att. ii. 9. This was Cicero's disgraceful practice. Two personal jokes of Cicero on Vatinius are recorded by Plutarch (Cicero, c. 26): "As to Vatinius, who had tumours in his neck, and was on one occasion pleading a cause, Cicero called him a tumid orator;" and again (c. 9): "Vatinius was a man whose manner was somewhat rough and contemptuous towards the magistrates when he was pleading before them, and his neck was full of swellings: on one occasion when he was before Cicero he made a certain demand, and as Cicero did not grant it forthwith, but deliberated some time, Vatinius said that he should not hesitate about it, if he were praetor, on which Cicero quickly answered, 'But I have not such a neck as you.'" Cicero's joke turned on the word 'cervices,' of which use there is an example in the Verr. ii. 3. c. 59: "qui tantis erunt cervicibus recuperatores qui audeant;" and 5. c. 42; and in this oration, c. 66.

nobiles . . . homines novi] See Vol. I., Index.—'bene natura constitutis:' men who have a good natural disposition, 'un bon naturel,' as our neighbours say. Orelli entirely mistook this simple passage, which Halm explains right.

discriptionem] P. G.; 'descriptionem,' Halm. The editors will seldom have any of the forms of 'discribere,' though it is often

quum regum potestatem non tulissent, ita magistratus annuos creaverunt, ut consilium senatus rei publicae praeponerent sempiternum, deligerentur autem in id consilium ab universo populo aditusque in

the true word, as it is here; for the 'discriptio' is the determination of the parts and divisions of a thing. In the De Re Publica, i. 46: "sic adfirmo nullam omnium rerum publicarum aut constitutione aut discriptione aut disciplina conferendam esse cum ea quam patres nostri nobis acceptam jam inde a majoribus reliquerunt;" and ii. 22: "reliquum populum distribuit in quinque classes . . . Quae discriptio si esset ignota vobis explicaretur a me."

regum] P. G., Halm (2); 'regiam' S., Halm (1).

ab universo populo] The whole populus elected the magistratus, and every Roman citizen in Cicero's time and long before was eligible to any magistratus. Admission to the Senate was got by being first elected to a magistratus by the people, and then formally admitted into the Senate by the censors. After Sulla's time the quaestorship gave a man admission to the Senate, as Ferratius says. But before Sulla's time those who had been quaestores were 'lecti' by the censors (Liv. xxiii. 23). Cicero (Verr. Act. i. c. 4) calls the "quaestura primus gradus honoris." Accordingly Cicero could say (Verr. ii. 4. c. 11) that the senators owed their places to the popular election, for it was only by virtue of their being elected to a magistratus that they were qualified to be placed on the list of senators by the censors.

Cicero has well marked the character of the Roman Senate. It was not a body consisting of nobles who claimed a place by hereditary title, but by merit, at least such merit as is implied by the fact of popular election. It was a body which always subsisted (sempiternum), though it was always changing, and every Roman might get a place in it. Such it was in theory, but it was not quite the same in practice, as Cicero found. It was easier for a noble to get elected to a high office than for an unknown man. Like all such bodies, however constituted, whether by hereditary succession or in any other way, the Roman Senate contained both good and bad men. It was superior to a Senate where admission may be got by birth alone, for any mode of admission which implies merit or the opinion of merit is better than mere accident; and it was better constituted than a body which is formed immediately by popular election, and has a limited existence of one or seven years; and better constituted in this respect, that though a man was qualified for admission to the Roman Senate by having held a magistratus by virtue of popular election, he could only be admitted into the Senate by the censors, and if they had no objection to him; and the censors could turn him out too, if they thought proper; better constituted in this too, that the rank was for life. Such was the constitution of the Roman Senate. Looking at it historically, we must admit that it was a wise body, and that Rome owed to it her long period of existence. If the Senate had been elected directly by the people, and for a limited time, the Roman state would neither have grown nor lived.

A body even thus constituted, which consisted in a great part of men of old and rich families, was essentially in opposition to the people; but it was this opposition of Senate and people which made Rome great, as Machiavelli proves. A body like the Senate would become insolent and tyrannical if it were not kept in check; and the people, a nation in the mass, if their will or their whim was always followed, would ruin themselves before they knew it. Between these two contending bodies, the nobles who loved power and the people who hated it, the Romans placed the Tribunate, the guardians of liberty, often dishonest guardians, but their occasional dishonesty did not alter their office. It was in the nature of things that the guardians of liberty were sometimes corrupted by the nobles and made common cause with them against those whom it was their duty to protect.

The high offices of the Roman state came naturally, as we say, for naturally here means a just consequence of certain premises, into the hands of the great families, and the rich. The men in power often abused their power; and naturally. As commanders of armies, administrators of the state, and as governors of provinces, they were guilty of great crimes and innumerable misdemeanours. But they were always liable to prosecution; not for treason only, or directly attacking the Majestas of the state, but for peculation, bad management, and other misdemeanours. Prosecutions at Rome were going on perpetually; and it is certain that in a large empire with numerous branches of administration and many foreign dependencies, prosecu-

illum summum ordinem omnium civium industriae ac virtuti pateret. Senatum rei publicae custodem, praesidem, propugnatorem collocaverunt; hujus ordinis auctoritate uti magistratus et quasi ministros gravissimi consilii esse voluerunt: senatum autem ipsum proximorum ordinum splendore confirmari, plebis libertatem et commoda tueri atque augere voluerunt.

tions must be going on continually, or guilty men will be left unpunished. No person who had filled a high office at Rome was safe against a prosecution, whether innocent or guilty; but the innocent who were prosecuted to conviction were very few; the guilty who escaped were many. The nobles attempted to protect one another, and so long as the guilty senators were tried by their own body, it was hard to convict them. C. Gracchus deprived the senators of the privilege of being tried by the Senate, and constituted the jury of Equites; but the Equites were often corrupt too. Sulla, a staunch friend to his order, set things right after his fashion. He took away the office of jury from the Equites in the trials for high misdemeanours and other criminal matters, and again gave the Senate the power of acquitting their friends. The Lex Aurelia (B.C. 70) made a mixed jury of Senators, Equites, and Tribuni Aerarii; but there was still corruption. So difficult is it in any country to bring great offenders to justice. The Romans sometimes did punish a bad general and a bad governor. We have no means so efficient as they had of bringing such men to trial. A man may spoil a campaign, misgovern a province, cause mischief infinite by incapacity, carelessness, and neglect of duty, and he will escape scot-free, protected by the powerful order to which he belongs, by the want of ready means of bringing him to trial, and by the cost and risk to the prosecutor who shall venture to attack a great offender.

"To those who in a state are appointed to be the guardians of its liberty no authority can be given more useful and necessary than that of being able to accuse citizens before the people or any magistrate or council, when the citizens have offended in any thing against the free state. This ordination has two effects very useful for a commonwealth. The first is this, that the citizens through fear of being accused attempt nothing against the state, and if they do, they are immediately and without respect checked. The other is, that a way is thus given for the working off of those humours which grow in states in any way against any citizen. And when those humours have no ordinary means of working themselves off, they have recourse to extraordinary means, which cause the complete ruin of a state. And there is nothing which makes a state so stable and firm, as to order it in such wise that the alteration of those humours which agitate it shall have a way of working themselves off, ordained by the laws" (Discorsi, i. c. 7).

In this chapter Cicero is full of his laudation of the Senate. There is truth in what he says; but he has only shown us one side of the Senate, and the good side. What is to become of a free state, as it is called, a state in which there is a popular element, where the guardians of liberty are become one with a powerful oligarchy, and where they surrender one of their chief functions, the punishment of great offenders, by joining the party whom it is their duty to resist? When the representatives of the people, people here being all except Senate, or by whatever other name such a body is called, have become one in interest and in ways of thinking with those whom it is their duty to resist and to check, the great security for a state is gone; administration at home and abroad may be as corrupt as it pleases, the just punishment of great offenders is impossible by regular ways, and a nation looks around to see what remedy either chance or any thing else will offer to them in the time of need.

splendore confirmari,] Bake writes 'splendorem confirmare,' which Halm accepts as egregious, though the MSS. have 'splendore confirmari.' The difference is not great, but there should be a reason for the change; and here it is. For fear of not rendering Bake's meaning right, I give his words: "Quum dixerit, quem locum in rep. teneret Senatus, magistratusque quasi ministros hujus gravissimi consilii, subjicit, quid ipsum facere et praestare oporteat. Sed hoc oblitteratum est in vulgata scriptura. Statim offendit, quod una sententiae comprehensione activum et passivum junguntur. Sed quid illud tandem ipsum est, *senatum confirmari prox. ord. splendore?* Non sane, proximis ordinibus aditum esse in senatum, quum modo dixerit: *aditum*

LXVI. Haec qui pro virili parte defendunt optimates sunt, cujuscunque sunt ordinis; qui autem praecipue suis cervicibus tanta munia atque rem publicam sustinent, hi semper habiti sunt optimatium principes, auctores et conservatores civitatis. Huic hominum generi fateor, ut ante dixi, multos adversarios, inimicos, invidos esse, multa proponi pericula, multas inferri injurias, magnos esse experiundos et subeundos labores: sed mihi omnis oratio est cum virtute, non cum desidia, cum dignitate, non cum voluptate; cum iis, qui se patriae, qui suis civibus, qui laudi, qui gloriae, non qui somno et conviviis et delectationi natos arbitrantur. Nam si qui voluptatibus ducuntur et se vitiorum illecebris et cupiditatum lenociniis dediderunt, missos faciant honores, ne attingant rem publicam; patiantur virorum fortium labore se otio suo perfrui. Qui autem bonam famam bonorum, quae sola vere gloria nominari potest, expetunt, aliis otium quaerere debent et voluptates, non sibi. Sudandum est iis pro communibus commodis, adeundae inimicitiae, subeundae saepe pro re publica tempestates: cum multis audacibus, improbis, nonnumquam etiam potentibus dimicandum. Haec audivimus de clarissimorum virorum consiliis et factis: haec accepimus, haec legimus. Neque eos in laude positos vide-

omnium industriae . . . patere. Neque ejus, qui senatum sempiternum reip. consilium ceteraque appellaverit, est putare, hunc ordinem niti oportere aliorum splendore. Corrigendum est: *splendorem confirmare.*" Let the reader observe that the corrector has to prove that the MSS. reading has no meaning before we can accept his alteration. But the MSS. reading has a very plain and good meaning; and Halm, who accepts Bake's corruption and adds the following short note to Bake's note, gives us unwittingly a useful hint: "Quum autem orator a *proximis ordinibus* aperte *plebem* sejungat, praeter publicanos et reliquos equites, quibus proprie *splendor* attribuitur, tribunos aerarios, qui tertius erat judicum ordo, intelligere videtur." And for these reasons I refuse to accept the corrupted text, which Halm takes, while he furnishes me with a good reason for keeping to the MSS. The orator distinguishes the *splendor* of the *proximi ordines* from the *plebs*; and as these 'proximi' were the Equites and Publicani, Cicero very properly, or at least very consistently with all his efforts to maintain the union of the Senate and the 'splendidi equites,' says that the Senate is supported by this body; and he says it in the passive voice, which offends Bake's sense of nicety, who cannot bear a passive in one member of this sentence and an active in the other. Further, Cicero very consistently speaks of the Senate maintaining the interests of the Plebs. The judices whom Cicero was addressing, consisted of Senators, Equites, and Tribuni Aerarii. After giving the Senate so high a position, would it have been consistent with good taste, to say nothing of truth, to speak of the Equites as depending for the preservation of their 'splendor' on the Senate, instead of making them, as a 'splendidus ordo,' the support of that great body in which was centered the administration and the dignity of the Roman state?

I leave others to decide between these reasons for keeping the text and those for altering it.

66. *suis cervicibus*] Note on c. 65.—'bonam famam . . . gloria:' "hoc est illud *laudari a laudato viro*" (Halm). This is what Cicero says to Cato (Ad Div. xv. 6):

"Laetus sum laudari me
inquit Hector, opinor apud Naevium,
abs te, pater, a laudato viro."

Here he has given us a useful definition of 'gloria,' one of his favourite topics (Vol. II. 'gloria,' Index).

mus, qui incitarunt aliquando populi animos ad seditionem, aut qui largitione caecarunt mentes imperitorum, aut qui fortes et claros viros et bene de re publica meritos in invidiam aliquam vocaverunt. Leves hos semper nostri homines et audaces et malos et perniciosos cives putaverunt. At vero qui horum impetus et conatus represserunt, qui auctoritate, qui fide, qui constantia, qui magnitudine animi consiliis audacium restiterunt, hi graves, hi principes, hi duces, hi auctores hujus dignitatis atque imperii semper habiti sunt.

LXVII. Ac ne quis ex nostro aut aliquorum praeterea casu hanc vitae viam pertimescat, unus in hac civitate, quem quidem ego possim dicere, praeclare vir de re publica meritus, L. Opimius, indignissime concidit; cujus monumentum celeberrimum in foro, sepulchrum desertissimum in littore Dyrrachino relictum est. Atque hunc tamen flagrantem invidia propter interitum C. Gracchi semper ipse populus Romanus periculo liberavit: alia quaedam civem egregium iniqui judicii procella pervertit. Ceteri vero aut

hujus dignitatis atque imperii] Gulielmius proposed to write 'hujus civitatis, atque imperii,' and Wesenberg approves of this, maintaining that the notion of 'dignitas' is foreign to this passage, "in which we have turbulent men on one side, who are always considered 'perniciosi cives,' and on the other their opponents, who are considered the chief of the 'optimates' and 'auctores et conservatores civitatis,' as they are called at the beginning of this chapter." I do not see why Cicero cannot call them 'auctores hujus dignitatis,' as well as 'auctores imperii,' the men "to whom we owe all this honourable estate and this empire."

67. *quem quidem ego possim*] 'Possim' is Madvig's correction, which Halm will not accept. The MSS., perhaps all, have 'possum,' but Ascensiana tertia and Hervagius have 'possim.' Madvig makes the necessity for the subjunctive depend, partly at least, so far as I understand him, on the 'quidem.' Cicero says "only one man in the state, so far as I can recollect." He does not mean to say "one man in the state, and I can tell you his name."

L. Opimius,] The murderer of C. Gracchus, B.C. 121 (Plutarch, C. Gracchus, c. 16; Quum Populo, c. 5). The critics have not been agreed what his 'monumentum in foro' was. Some thought that it was the temple of Concordia, which was erected in the Forum to commemorate Opimius' services (Plutarch, C. Gracchus, c. 17; Appian, B. C. i. 26). Manutius supposed that the 'monumentum' was a Basilica. Becker (Handbuch, &c., I 309) doubted if there was a Basilica Opimia; but Urlichs (Römische Topographie in Leipzig, p. 26) besides Varro's evidence for a Basilica Opimia (L. L. v. 156, ed. Müll.), quotes two inscriptions from Marini's Atti de' fratelli Arvali, p. 212, in which 'Basilica Opimia' occurs. Becker in his answer to this pamphlet of Urlichs (Zur Römischen Topographie, p. 33) acknowledges his mistake. He had overlooked the two inscriptions in Marini.

iniqui judicii procella] He has said that the 'populus Romanus' always protected Opimius. Liv. Epit. 61: "L. Opimius accusatus apud populum a Q. Decio tr. pl. quod indemnatos cives in carcerem conjecisset absolutus est." Opimius was prosecuted B.C. 120 on a charge of Majestas, founded on his violence in putting down C. Gracchus and his partizans. C. Papirius Carbo the consul defended him. Opimius was afterwards tried under a Lex Mamilia for his misconduct as a legatus in the matter of the division of Numidia (B.C. 112). He was charged with being bribed by Jugurtha (Sall. Jug. c. 16), convicted, and sent into exile (B.C. 110). He was convicted, as Cicero says, because of his unpopularity owing to the affair of Gracchus, and the Equites, who at this time were the judices or court, paid off in this way an old grudge (Cicero, Pro Cn. Plancio, c. 28; Brutus, c. 34; Sallust, Jug. c. 40). Opimius died in poverty at Dyrrachium

repentina vi perculsi ac tempestate populari per populum tamen ipsum recreati sunt atque revocati, aut omnino invulnerati inviolatique vixerunt. At vero ii qui senatus consilium, qui auctoritatem bonorum, qui instituta majorum neglexerunt et imperitae aut concitatae multitudini jucundi esse voluerunt, omnes fere rei publicae poenas aut praesenti morte aut turpi exsilio dependerunt. Quod si apud Athenienses, homines Graecos, longe a nostrorum hominum gravitate disjunctos non deerant qui rem publicam contra populi temeritatem defenderent, quum omnes qui ita fecerant e civitate ejicerentur; si Themistoclem illum, conservatorem patriae, non deterruit a re publica defendenda nec Miltiadi calamitas, qui illam civitatem paullo ante servarat, neque Aristidi fuga, qui unus omnium justissimus fuisse traditur; si postea summi ejusdem civitatis viri, quos nominatim appellari non est necesse, propositis tot exemplis iracundiae levitatisque popularis tamen suam rem publicam illam defenderunt; quid nos tandem facere debemus, primum in ea civitate nati, unde orta mihi gravitas et magnitudo animi videtur, tum in tanta gloria insistentes, ut omnia humana leviora videri debeant, deinde ad eam rem publicam tuendam aggressi, quae tanta dignitate est ut eam defendentem occidere non aliud sit quam oppugnantem rerum potiri?

(Durazzo) in Epirus. He is often mentioned by Cicero (In Cat. i. 2).

praesenti morte] As Sp. Maelius, M. Manlius Capitolinus, the two Gracchi, L. Apuleius Saturninus, P. Sulpicius, all of whom lost their lives; M. Lepidus, who was consul with Q. Catulus and attempted to undo the work of Sulla, went into exile to Sardinia (Manutius).

Themistoclem] Perhaps he was not so honest as Cicero would represent him. At any rate he turned a traitor to his country, when he was obliged to leave it. If he was ill used at home, he should have shown that he did not deserve it.

Miltiadi ... Aristidi] "Hae genitivorum formae nunc ex Schol. restitutae sunt" (Halm).

suam ... illam] Bake proposes to change 'illam' into 'illi.' 'Illam' is emphatic; 'such as it was,' fickle and ungrateful, as Halm suggests. He also offers another explanation.

non aliud] The critics have suggested various corrections for 'non aliud,' which are as follows: 'majus,' 'nobilius' 'satius,' 'melius,' 'optabilius,' 'honestius,' 'nomen majus,' and finally Halm proposes 'amplius,' or 'multo amplius.' Klotz maintains the genuineness of the text, and translates it "so that to fall in its defence is to be valued no less than in the struggle against it to get possession of the power;" which Halm ridicules in these words: "En habes sententiam homine Romano dignam, qui mortem in patria defendenda gloriose obitam in eadem trutina collocet in qua dominationem vi armisque occupatam." I believe that the text is right, and that Klotz has seen the meaning, though he has not well expressed it. 'Rerum potiri' is to get power, political power, or generally to get what men love, wealth, power, place, for which, says the poet, all the world is struggling:

"Noctes atque dies niti praestante labore
Ad summas emergere opes rerumque potiri." (Lucretius ii. 12.)

If Cicero said, according to the emendators, that to die in defence of the Patria is 'greater,' 'more noble,' 'better,' and so forth, than to usurp the sovereign power, he uttered a very insipid proposition; if he considered the usurpation of sovereign power as so small and mean a thing, or if he supposed that men generally supposed it to be such. If we compare two things, one

LXVIII. Homines Graeci, quos antea nominavi, inique a suis civibus damnati atque expulsi, tamen, quia bene sunt de suis civitatibus meriti, tanta hodie gloria sunt non in Graecia solum, sed etiam apud nos atque in ceteris terris, ut eos a quibus illi oppressi sunt nemo nominet, horum calamitatem dominationi illorum omnes anteponant. Quis Karthaginiensium pluris fuit Hannibale consilio, virtute, rebus gestis, qui unus cum tot imperatoribus nostris per tot annos de imperio et de gloria decertavit? Hunc sui cives e civitate ejecerunt: nos etiam hostem litteris nostris et memoria videmus esse celebratum. Quare imitemur nostros Brutos, Camillos, Ahalas, Decios, Curios, Fabricios, Maximos, Scipiones, Lentulos, Aemilios, innumerabiles alios, qui hanc rem publicam stabiliverunt; quos equidem in deorum immortalium coetu ac numero repono. Amemus patriam, pareamus senatui, consulamus bonis: praesentes fructus negligamus, posteritatis gloriae serviamus: id esse opti-

of which is great and noble, and choose for the other term of the comparison something small, ignoble, and bad; it is little that we say for the great and noble, if we can say no more than that it is better than a bad thing. According to tne emendation, Cicero might as well have said, good is better than bad. If he said to "die in defence of the Patria" is really nothing different from "gaining the supreme power by an attack on the Patria," he may mean that supreme power, the great object of men's ambition, that which L. Sulla for instance had got, ought to be valued by no man more than to die in defence of so glorious a commonwealth. Death in defence of so noble a thing is as good as to get the mastery of it and live; and to usurp supreme power and hold it successfully is, according to common opinion, as we now all know by example, a very glorious thing.

Halm, after saying of Klotz what I have quoted, adds: "Ac videas, quaeso, quam sibi constet orator patriae non amantissimus; nam paulo post (c. 68): 'ut eos,' inquit, 'a quibus,'" &c. His perception is not very quick, or he would see that this is against him. In this next chapter Cicero says that the honest Greeks, who were condemned and expelled by their fellow-citizens, have such a good character, that nobody utters the names of their oppressors, and every body sets the unlucky lot of the sufferers higher than the domination of those who were powerful enough to oppress them. —But the 'dominatio' of the victorious party was something. It was power and superiority: it was a thing which all men value. If we were sure that 'non aliud' is not right, it would be absurd to attempt to explain it. But if there is no evidence in the reading for supposing it to be false, we should see if it is capable of any interpretation before we alter it.

68. *Hunc . . . ejecerunt:*] 'Non ejectus est' (Manutius), who quotes Nepos, Life of Hannibal, to show that Hannibal left home for fear of being given up to the Romans. That was ejection enough.—'hostem celebratum:' They spoke of him as perfidious and cruel. They had not much good to say of him. There is a curious passage in Pliny (34. c. 6), quoted by Abrami: "adeo discrimen omne sublatum, ut Hannibalis etiam statuae tribus locis visantur in urbe, cujus intra muros solus hostium emisit hastam."

Brutos,] The usual list of Roman worthies. Cicero mentions the Lentuli to please Lentulus, by whose exertions he had been recalled, and the Aemilii to please Scaurus, who presided at this trial (Abram.). As to the plurals, see Hor. Sat. i. 7. 8, Macleane's note.

posteritatis gloriae] "Quae a posteritate in nos redundat, quaque apud posteros fruimur," Matthiae, who refers to Pro C. Rabirio, c. 10: "neque quisquam nostrum . . . quin spe posteritatis fructuque ducatur." (Vol. II., and the note.) Cicero is always a little obscure when he talks of glory and posterity. Here he says, "let us neglect present profit, let us make ourselves slaves to the glory of posterity." I do not examine into his meaning very exactly, for all such phrases will not bear close examination; but we may take his words to mean this in a general way: "let us secure a

mum putemus quod erit rectissimum: speremus quae volumus, sed quod acciderit feramus: cogitemus denique corpus virorum fortium magnorumque hominum esse mortale, animi vero motus et virtutis gloriam sempiternam: neque hanc opinionem si in illo sanctissimo Hercule consecratam videmus, cujus corpore ambusto vitam ejus et virtutem immortalitas excepisse dicatur, minus existimemus eos, qui hanc tantam rem publicam suis .consiliis aut laboribus aut auxerint aut defenderint aut servarint, esse immortalem gloriam consecutos.

LXIX. Sed me repente, judices, de fortissimorum et clarissimorum civium dignitate et gloria dicentem et plura etiam dicere parantem horum adspectus in ipso cursu orationis repressit. Video P. Sestium, meae salutis, vestrae auctoritatis, publicae caussae defensorem, propugnatorem, actorem, reum: video hunc praetextatum ejus filium oculis lacrimantibus me intuentem: video Milonem, vindicem vestrae libertatis, custodem salutis meae, subsidium afflictae rei publicae, exstinctorem domestici latrocinii, repressorem caedis quotidianae, defensorem templorum atque tectorum, praesidium curiae, sordidatum et reum: video P. Lentulum, cujus ego patrem deum ac parentem statuo fortunae ac nominis mei et fratris rerumque nostrarum, in hoc misero squalore et sor-

good name among those who come after us." And this name is to be got by acts of a certain kind. Voltaire's good sense furnished him with a conception of glory which is practically useful: "La gloire est la réputation jointe à l'estime; elle est au comble, quand l'admiration s'y joint. Elle suppose toujours des choses éclatantes, en actions, en vertus, en talents et toujours de grandes difficultés surmontées." Such absurdity as glory "quae a posteritate in nos redundat, quaque apud posteros fruimur" is not what Cicero said or meant.

animi . . . motus] The movements of the mind, the thoughts, the activity of the mind. 'Motus' is generally supposed to be the accusative plural; but Halm takes it to be the genitive singular: "the glory of the intellectual activity and of virtue is eternal."

ambusto] The inferior MSS. have 'combusto,' which many editors prefer as being the more usual word to express the burning of the dead. "Sed recte Orelli: Vel ob hanc ipsam causam in tam eloquenti ῥήσει rarius illud, quod proprie significat *circumustum, umlodert* (surrounded by the flames) et *non plane combustum* videtur delegisse" (Halm). The note is as wonderful as the introduction of Hercules. The orator might have left out the eloquent ῥῆσις. How many of those whom he addressed (c. 62) believed the story of Hercules? And if they did not, why does he attempt to confirm the 'opinio immortalitatis' by a foolish old story about a man being burnt and then taken up into heaven? As to 'ambustus,' there is burning enough in that word, for Phaeton was 'ambustus' (Hor. Carm. iv. 11); and another (Hor. Sat. i. 10. v. 64) was 'ambustus' with a pile of his own writings.

69. *vestrae auctoritatis,*] The 'auctoritas' of the judices, whom he is addressing, which 'auctoritas' Sestius had re established after it was impaired by the violence of wicked citizens (Halm).

actorem,] 'auctorem' G. 'Actor' and 'auctor' are often confounded.—'Milonem . . . sordidatum et reum:' see c. 1, note.

deum ac parentem] Compare Quum Senatui, c. 4: "parens ac deus nostrae vitae, fortunae, memoriae, nominis;" and Quum Populo, c. 5; which two passages contain the same form of expression as this, but with amplifications.

dibus; cui superior annus idem et virilem patris et praetextam populi judicio togam dederit, hunc hoc anno in hac toga rogationis injustissimae subitam acerbitatem pro patre fortissimo et clarissimo cive deprecantem. Atque hic tot et talium civium squalor, hic luctus, hae sordes susceptae sunt propter unum me, quia me defenderunt, quia meum casum luctumque doluerunt, quia me lugenti patriae, flagitanti senatui, poscenti Italiae, vobis omnibus orantibus reddiderunt. Quod tantum est in me scelus? quid tanto opere deliqui illo die, quum ad vos indicia, litteras, confessiones communis exitii detuli, quum parui vobis? Ac si scelestum est amare patriam, pertuli poenarum satis: eversa domus est, fortunae vexatae, dissipati liberi, raptata conjux, frater optimus, incredibili pietate, amore inaudito, maximo in squalore volutatus est ad pedes inimicissimorum: ego pulsus aris, focis, dis penatibus, distractus a meis, carui patria, quam, ut levissime dicam, certe texeram: pertuli crudelitatem inimicorum, scelus infidelium, fraudem invidorum. Si hoc non est satis, quod haec omnia deleta videntur reditu meo,

et virilem patris et praetextam populi judicio] "Eodem anno quo togam virilem a patre sumpsit, etiam auguratus praetextam judicio populi adeptus est" (Schol.). He was elected a member of the college of augurs in the consulship of his father (Dion 39. c. 17), though he was only a youth in his seventeenth year; as babies and boys in modern times are sometimes put in great places, or receive great names.

Meyer (Brutus, c. 1) has a note on the election of augurs. Originally the members filled up the vacancies in their own body, but in Cicero's time a new member was nominated by two 'collegae,' and his nomination was confirmed by the people. As to the age of assuming the 'toga virilis,' see Index, 'toga virilis.'

rogationis injustissimae] He alludes, as the Scholiast tells us—the defective parts of the note are supplied by Mai—to the tribunitian Rogatio against P. Lentulus. The Egyptian king Ptolemy having been expelled from his throne, and the Roman Senate having consented to restore him, the business was intrusted to P. Lentulus. The Xviri having looked in the Sibylline books discovered that the king ought not to be restored with the aid of a force, nor yet ought the Romans to refuse to restore him. On this it was declared by a SCtum that it was dangerous to restore the king by force. But on the business being intrusted to Lentulus, Cato tr. pl., who was Lentulus' enemy, carried a Rogatio by which Lentulus, who was then governor of Cilicia, was deprived of his 'imperium,' in order that he might not be able to restore the king.—Cato is C. Cato. The affair is mentioned by Cicero, Ad Fam. i. 5, and Ad Q. Fr. ii. 3, where he says, "C. Cato legem promulgavit de imperio Lentulo abrogando. Vestitum filius mutavit." The historian Fenestella had a passage on this matter (Annal. xxii.): "Itaque ut magistratum tribuni inierunt, C. Cato turbulentus adolescens et audax, nec imparatus ad dicendum, initionibus (contionibus?) assiduis invidiam et Ptolemaeo, qui jam profectus ex urbe erat, et P. Lentulo consuli paranti jam iter, concitare secundo quidem populi rumore coepit" (Sallust, ed. Frotscher).

illo die . . . indicia, litteras,] III Non. Dec. (Introduction to the orations against Catilina, p. 10). When he says 'parui vobis,' he addresses the senators chiefly among the judices (Halm); for Cicero only followed the order of the Senate in executing the conspirators.

dissipati] His son Marcus separated from his daughter Tullia (Orelli).—'raptata:' compare De Domo, c. 23.

certe texeram:] The reading of the 'Codd. dett.' (Halm). The expression seems strange. P. has "*certadeie||texeram* sed *ie* expunctum; *certo detexeram* G." (Halm). It is probable that there is some corruption in the text. Various emendations have been proposed.

multo mihi, multo, inquam, judices, praestat in eandem illam recidere fortunam quam tantam importare meis defensoribus et conservatoribus calamitatem. An ego in hac urbe esse possim his pulsis, qui me hujus urbis compotem fecerunt? Non ero, non potero esse, judices; neque hic umquam puer, qui his lacrimis qua sit pietate declarat, amisso patre suo propter me, me ipsum incolumem videbit, nec, quotiescunque me viderit, ingemiscet ac pestem suam et patris sui sese dicet videre. Ego vero hos in omni fortuna quaecunque erit oblata complectar; nec me ab iis, quos meo nomine sordidatos videtis, umquam ulla fortuna divellet; neque eae nationes, quibus me senatus commendavit, quibus de me gratias egit, hunc exsulem propter me sine me videbunt. Sed haec di immortales, qui me suis templis advenientem receperunt stipatum ab his viris et P. Lentulo consule, atque ipsa res publica, qua nihil est sanctius, vestrae potestati, judices, commiserunt. Vos hoc judicio omnium bonorum mentes confirmare, improborum reprimere potestis: vos his civibus uti optimis, vos me reficere et renovare rem publicam. Quare vos obtestor atque obsecro, ut, si me salvum esse voluistis, eos conservetis per quos me recuperavistis.

his pulsis,] Sestius and Milo, who were prosecuted De Vi (Halm).

neque hic umquam puer . . . videbit, nec . . .] The former negation has the effect of destroying also the second (Matthiae): 'And never will this youth see me and not lament,' &c.

Ego vero hos] The MSS. have 'vos.' Madvig corrected this error by writing 'eos' for 'vos;' and C. F. Hermann has 'hos,' which Halm accepts.

qui . . . receperunt] On returning from exile he went from the Porta Capena to the Capitol, and thence to his house or place where he was going to stay (Ad Att. iv. 1; De Domo, c. 28) (Manutius). It is written in the De Domo, c. 28: "a porta in Capitolium atque inde domum." In the letter to Atticus he speaks of going from the Porta Capena to the Capitol, but he says nothing of going home. He does not say where he went to (see c. 63, note).

his civibus] Sestius and Milo.

In p. 295 I have given the name of Aelius Staienus to the tr. pl. Aelius Ligur, but I can find no authority for the name Staienus, except Wolf. I have also p. 302 confounded this man with the Ligur of the oration Pro Cluentio; but I have not done it elsewhere.

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THE REFERENCES ARE MADE TO THE PAGES.

END OF VOL. III.

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